



# ESGR TIPS



## for Guard and Reserve Members

**M**ost employment conflicts can be avoided by being candid with your employer about your obligations as a member of one of the Reserve components. Don't take your employer's support for granted. Here's a summary of advice from ESGR on how to keep the boss on your side:

**Talk to your boss.** No matter what your military assignment or specialty, tell your employer about it. Even if what you do in the military is different from your civilian job, sharing the details can impress your boss.

**Federal Law.** Experience has shown that members of the National Guard and Reserve, as well as their employers, do not always have a clear understanding about employment and reemployment rights for Reserve component members. Federal law guarantees the right to take time off from work to attend to your military responsibilities. The more that you, your boss, and your personnel office know about the federal laws and legal precedents that spell out Reserve reemployment rights, rules and obligations protected by the laws, the less chance there is for misunderstanding. For more information, see the article in the December issue of the *Reserve & National Guard Magazine* at [www.ameriforce.net](http://www.ameriforce.net).

**Drill Schedules.** Don't make your boss guess about your National Guard or Reserve duties. The more you share with the boss - and the earlier you share it the better - about drill schedules, annual training plans, reemployment rights and rules, and any extra time-off requirements, the easier things will go. Remember, you must give your employer advance notice of any military service, including drills. When schedule changes occur, notify the employer as soon as you know about them.

**Annual Training Schedules.** The same rules apply for Annual Training (AT). Most units schedule their AT months in advance - that is the time to provide notification to the employer.

**Extra training.** When you or your unit needs additional training, or you are scheduled to attend a service school, let the boss know about it. Giving employers the maximum lead-time enables them to make plans to accommodate your absence.

**Non-Training Active Duty.** Many Reserve component members perform tours of active duty that are not for training. This can range from short active duty tours, to support exercises or work on special projects, to years of active duty in the Active Guard Reserve (AGR) or similar programs. Again, under USERRA, prior notice of this type of duty must be given to your employer. Remember too, that most duty of this type is subject to a cumulative five-year time limit after which you no longer have reemployment rights under USERRA with a given employer.

**Emergency/contingency duty.** Many Reserve component members have served on active duty in support of such operations as the Persian Gulf conflict. In any case, when you have been activated involuntarily for a particular mission, your period of service will not count against the cumulative five-year limit established under USERRA. In most cases, voluntary duty will also be exempt from the five-year limit if it is in direct support of a contingency operation.

**Scheduling.** If you miss work while you perform military service, your employer is not obligated to reschedule you to make up the time lost. However, if employees who miss work for nonmilitary reasons are afforded opportunities to make up the time lost, you must be treated in the same manner. Further,

you cannot be required to find a replacement worker for the shift(s) you will miss as a condition of being given the time off by your employer to perform military service.

**Vacation.** Federal law allows you the option to use earned vacation while performing military service, but you cannot be required to do so. The only case where you could be required to use your vacation would be if your company has a planned shutdown period when everyone must take vacation, and your military service coincides with that period of time.

**Vacation Accrual.** Your employer is not required to provide for vacation accrual while you are absent from work performing military service, unless accrual is permitted for employees on nonmilitary leave of absence of similar length.

**Pay.** Although some private and many government employers provide full or partial civilian pay to employees absent on military duty-usually for a limited period of time-the law requires only an unpaid leave of absence.

### **Federal Employee Paid Military**

**Leave.** Federal employees are entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. More information is available from the Office of Personnel Management site at: <http://www.opm.gov/oca/leave/html/military.htm>.

### **National Guard and Reserve Members that are Students.**

Currently, federal law does not guarantee equal rights and protections across the country to members of the National Guard and Reserve who are enrolled in schools, colleges and universities. Student members of the National Guard and Reserve are not guaranteed refunds of tuition and fees paid for the term they cannot complete. There are no provisions for partial course credit, or the right to return to the college or university upon completion of active service. However, help is on the way. The Service members Opportunity Colleges (SOC) organization is prepared to intercede for members experiencing problems, such as loss of credit in school courses due to call-up. If a student called to active duty is experiencing problems related to course

credit, tuition, fees or re-enrollment in a program of study, he/she can call, toll free, 800-368-5622, or write to: Service members Opportunity Colleges, 1 DuPont Circle, NW, Suite 680, Washington, DC 20036. A representative from SOC will work with the student Soldier and the institution involved to resolve the issue. Unit commanders with members experiencing such problems are urged to make every effort to ensure these members know this help is available.

**Reward the Boss for Supporting Your Service.** The Department of Defense will send your boss - through your unit commander - a personally prepared certificate of appreciation if you, the National Guard or Reserve member, just apply for it. Applications can be obtained from your unit ESGR representative, any member of your ESGR Committee, at [www.esgr.org](http://www.esgr.org) or by calling ESGR directly, 800-336-4590. **R&NG**