



# Introduction



A MEMBER OF THE  
**GUARD & RESERVE**  
SUPPORT NETWORK

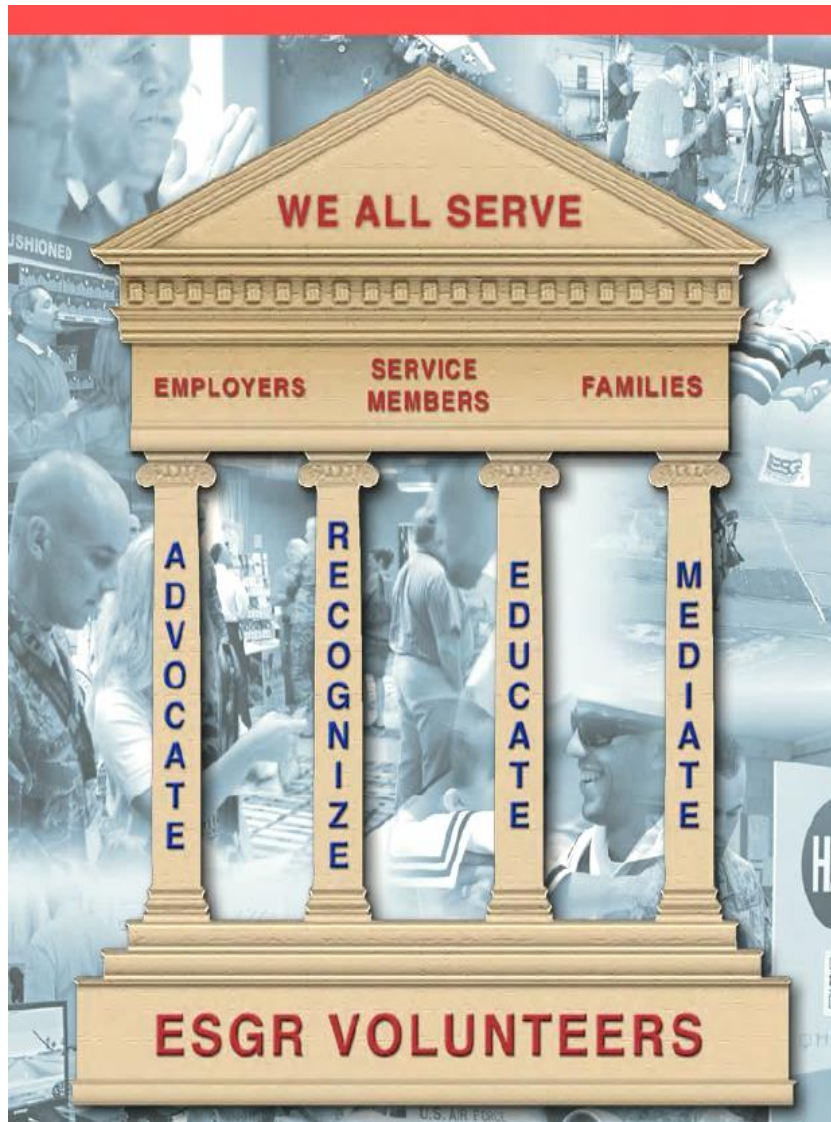


Yellow Ribbon  
Reintegration Program  
*For Those Who Serve and Those Who Support™*

[www.ESGR.mil](http://www.ESGR.mil)

# **What is Employer Support of the Guard & Reserve (ESGR)**

- **A Department of Defense Volunteer Organization**
- **Established by Secretary of Defense in 1972 (end of draft)**
- **Over 3,800 Citizen-Volunteers, 54 State Committees**

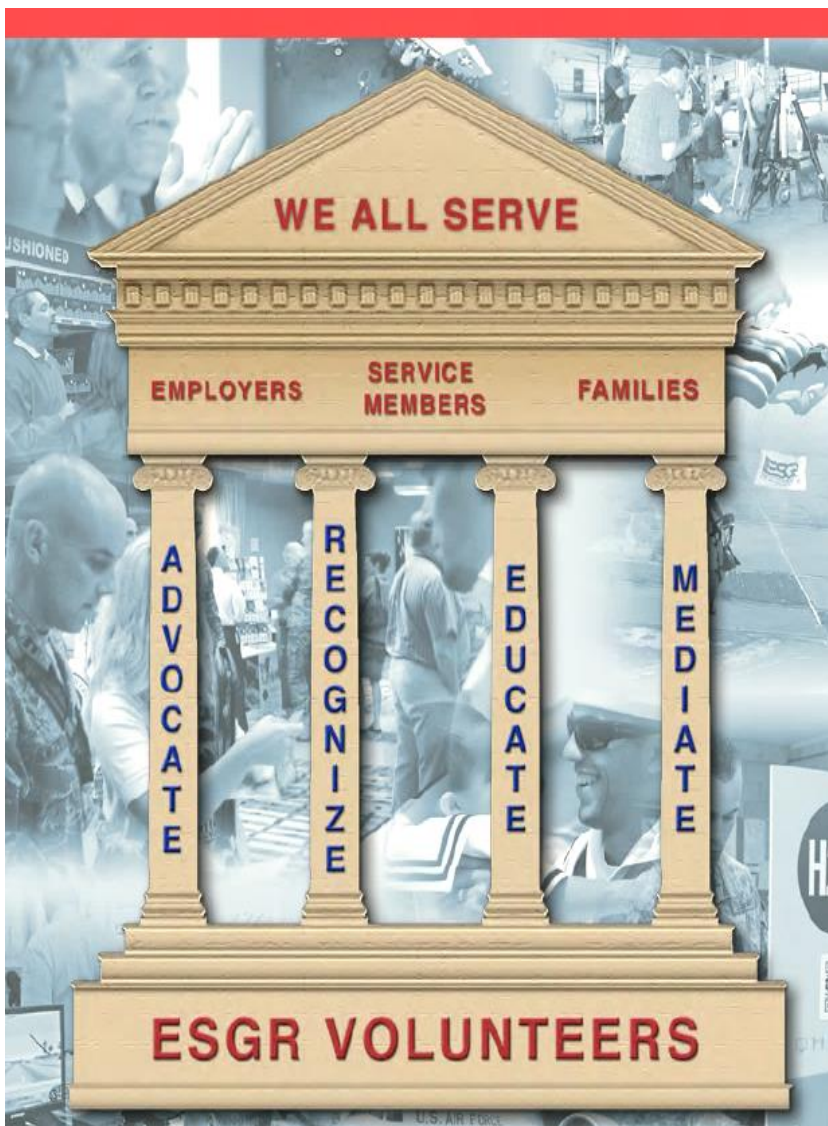


## **EMPLOYER OUTREACH**

***Promote a culture where employers support and value military service, and educate them of their responsibilities under the law***

## **MILITARY OUTREACH**

***Ensure Service Members are aware of their rights and responsibilities under the law as well as recognize outstanding employer support for Service Members***



## OMBUDSMAN

*Mediate issues or conflicts  
between employers and  
Service Members before they  
escalate*

**WE ARE:  
“Volunteer Led, Mission  
Driven.”**

# Committee Leadership

**State Chair**

**Mr. Donald Clark**

**Vice Chair**

**Benny Paulino, MG USA (Ret)**

**Chair Emeritus**

**Mr. David Sablan**

**CNMMI Area Chair**

**Ms. Rose Igitol**

**Ombudsman**

**Ms. Lisa Fisher**

**Military Outreach**

**Ray Taimanglo, COL USA (Ret)**

**Employer Outreach**

**Ms. Cathy Gogue**

**Training**

**Ms. Dina San Nicolas**

**Public Affairs**

**Ms. Deborah Weger**

**20 ESGR Volunteers - 2 Full-time Support Staff**





# Vision

**Develop and promote a culture in which  
all American employers support and  
value the military service of their  
employees**

# Mission

Develop and promote Employer Support for Guard and Reserve Members by **ADVOCATING** relevant initiatives, **RECOGNIZING** outstanding support, **INCREASING AWARENESS** of applicable laws, and **RESOLVING CONFLICTS** between employers and Service Member

# Guard & Reserve Components

## Strength

- **1/3 of the Total Force (Active, Guard and Reserves)**
- **Increased demand for Operational Support**
- **Over 948,320 activated or deployed since 9-11**

## Readiness

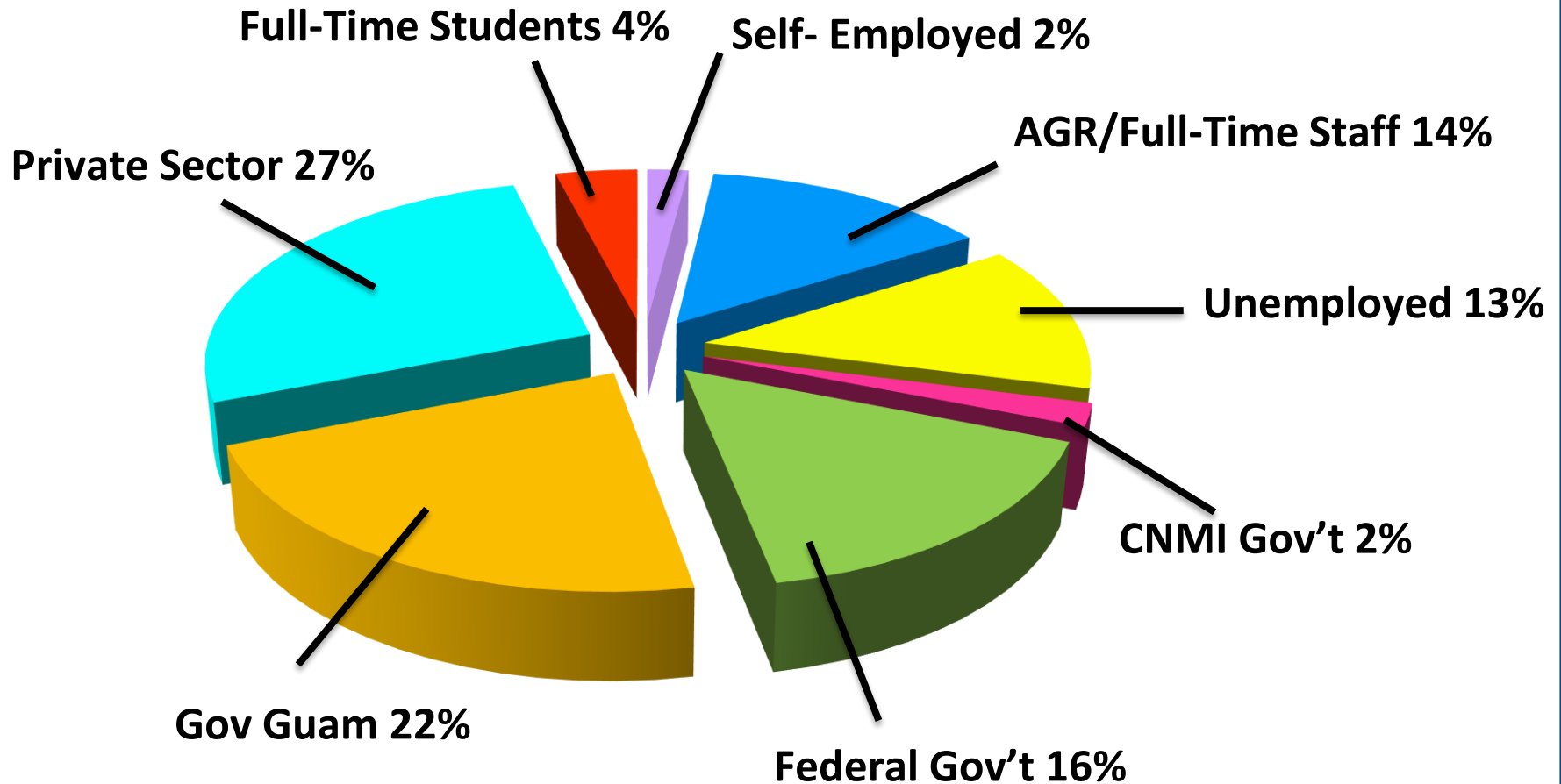
- **Perform Full Spectrum of Military Operations**
- **Peacekeeping, Homeland Security, Domestic Disaster Response**
- **Critical component of the Total Force**



# Who Do We Serve?

- **Guam Army National Guard**
- **U.S. Army Reserve**
- **U.S. Navy Reserve**
- **Guam Air National Guard**
- **U.S. Air Force Reserve**
- **U.S. Coast Guard Reserve**

# Where are Service Members Employed?



*As of January 2018*

# Value of Guard & Reserve Members

## *To the Taxpayer*

- 1/3 the cost of active duty
- Civil Support
- Homeland Defense

## *To the Employer*

- Technical training
- Organizational skills
- Leadership experience
- Professional Development
- Self discipline
- Physically fit
- Drug free

# Patriot Award

Initiated by Reserve Component Members or Spouses



Employer Recognition

Awarded to Employers of Service Member Employees or their Spouse

# Most Supportive Employer



**Awarded to Outstanding Most Supportive Employers**



# Above & Beyond Award



**Awarded to Outstanding Employers who Demonstrate  
Above and Beyond Support**



# Pro Patria Award



**Highest award presented to only  
3 Employers in State or Territory annually**

# Secretary of Defense Employer Support Freedom Award

- The Highest National Award given to an employer
- 15 employers in the nation are presented this prestigious award each year



# Freedom Award National Finalist



In 2014, Judiciary of Guam was selected as one of the **30 National Finalist** out of 2,685 nominations.

In 2008, Alpha Insurers was one of 35 National Finalist out of 3,200 nominations.

# Bosslift

- **Employers see Guard and Reserve Members in action**
- **Employers witness valuable training**
- **Employers gain appreciation of the military mission**
- **Positive public relations**



# Army National Guard Field Training Exercises (FTX)





# Air National Guard Refueling Mission (cont'd)





# Military Sealift Command USNS Soderman



# USS Texas (SSN-775) Submarine












# USMC Guahan Shield





# Statement of Support Signing



  
**STATEMENT OF SUPPORT  
FOR THE GUARD AND RESERVE**  
     


We recognize the Guard and Reserve are essential to the strength of our nation and the well-being of our communities.


In the highest American tradition, the patriotic men and women of the Guard and Reserve serve voluntarily in an honorable and vital profession. They train to respond to their community and their country in time of need. They deserve the support of every segment of our society.

If these volunteer forces are to continue to serve our nation, increased public understanding is required of the essential role of the Guard and Reserve in preserving our national security.


Therefore, we join other employers in pledging that:

- We fully recognize, honor and enforce the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- Our managers and supervisors will have the tools they need to effectively manage those employees who serve in the Guard and Reserve.
- We appreciate the values, leadership and unique skills service members bring to the workforce and will encourage opportunities to hire Guardsmen, Reservists, and Veterans.
- We will continually recognize and support our country's service members and their families in peace, in crisis, and in war.

  
\_\_\_\_\_  
Employer  
  
James G. Reboholz  
National Chair, ESGR

  
\_\_\_\_\_  
Leon E. Panetta  
Secretary of Defense

\_\_\_\_\_  
Date

  
EMPLOYER SUPPORT OF  
THE GUARD AND RESERVE



# We All Serve

[www.ESGR.mil](http://www.ESGR.mil)

[www.Facebook.com/GoESGR](https://www.Facebook.com/GoESGR)

[www.Twitter.com/ESGR](https://www.Twitter.com/ESGR)

[www.YouTube.com/EmployerSupport](https://www.YouTube.com/EmployerSupport)

[www.Linkedin.....ESGRGroup](https://www.Linkedin.....ESGRGroup)

# ESGR by the Numbers

## Outreach Mission – Fiscal Year 2018

Employers Engaged	Service Members Engaged	Patriot Awards Presented	Statements of Support
95,229	268,662	10,783	9,997
Freedom Award Nominations	Number of Volunteers	Volunteer Hours	Return on Investment*
2,351	3,697	218,942	\$5.40M

## Ombudsmen Mission – Fiscal Year 2018

USERRA Inquiries	Cases Assigned	Cases Resolved / % Resolved	Average Number of Days to Mediate	Potential Federal Government Cost Avoidance**
17,568	1,655	1,226 / 74%	9.00	\$4.67M

\*Based on the 2018 Independent Sector value of a volunteer hour: \$24.69

\*\*Figure represents the potential Federal Government cost avoidance of investigations conducted by the Office of Special Counsel and/or Department of Labor, which ranges up to \$3,810 per case.

Total return on investment for FY18 is \$10.07M



# USERRA

## Uniformed Services Employment and Reemployment Rights Act

38 U.S.C. 4301-4334

# USERRA

**Became law in 1994 (Updated Version of Service Members Job Protection Laws That Date Back to WWII)**

**Encourages All-Volunteer Uniformed Service**

**Prohibits Discrimination Against Those Who Serve or Have Served in the Armed Force**

**Applies to Voluntary As Well As Involuntary Service**

# U.S. SUPREME COURT RULING

Courts have followed the Supreme Court's admonition that: *"This legislation is to be liberally construed for the benefit of those who left private life to serve their country. . ."*

[Fishgold v. Sullivan Drydock and Repair Corporation  
(1946)]

# APPLICABILITY TO EMPLOYERS

**Applies to Federal Government, state and local governments, and private employers regardless of size**

**Applies to all employers in U.S. *except* foreign embassies and international organizations (ex. NATO), Indian tribes, and religious institutions**

# **RELATION TO OTHER LAWS, POLICIES & PRACTICES**

**USERRA Does Not Supersede Other Provisions That  
Provide Greater or Additional Rights (ex. FMLA,  
company policies)**

**USERRA Does Supersede Other Provisions That  
Restrict The Reserve Member's Rights**

**USERRA is the “Floor, Not the Ceiling”**

# ELIGIBILITY CRITERIA

## “The Six Gates”



# LEAVING EMPLOYMENT

## GATE 1

### MUST BE AN EMPLOYEE

Need not be “Permanent” or “Regular” Job  
Job Offers are Protected

## GATE 2

### LEAVE FOR MILITARY SERVICE

Voluntary or Involuntary

# PRIOR NOTICE

## GATE 3

### MUST GIVE PRIOR NOTICE

**Verbal Notice is Fine – Written is Better**

**An *Appropriate Officer* Can Give Notice**

**Not Required if Precluded by Military Necessity; or Impossible**

**Notice Can Be Last Minute...Literally**

**DoDI 1205.12 – DoD “*Strongly*” Encourages Advance Notice *in Writing***

# FIVE-YEAR LIMIT

## GATE 4

**SERVICE MUST NOT EXCEED A CUMULATIVE PERIOD  
OF FIVE YEARS**

**Cumulative with Current Employer**

**New Employer: New 5-Year Limit**

**Actual Period of Military Service, *Not Time Absent  
From Work***

**Exemptions from 5-Year Limit:**

***Involuntary Call-up, Volunteer for Critical Mission;  
War***

# HONORABLE DISCHARGE CONDITIONS

## GATE 5

EMPLOYEE MUST BE HONORABLY DISCHARGED or  
GENERALLY DISCHARGED

*Type of discharge noted on official discharge  
papers (DD-214)*

# RETURNING TO WORK

## GATE 6

### RETURN TO WORK IN A TIMELY MANNER

- < 31 Days: Report Next Day; Allowing for Safe Return To Home + 8 Hrs. Rest
- > 31-180 Days: Report Within 14 Days of Discharge Date on Form DD-214
- > 180 Days: Report Within 90 Days of Discharge Date on DD-214
- + 2 Years: if Injured, Hospitalization/Convalescence



# ENTITLEMENTS

# PROMPT REINSTATEMENT

**If Service Was 30 Days or Less: Immediate Reinstatement**

**Over 30 Days: Prompt Reinstatement – “Within 14 days”**

**Cannot Make Service Member Wait for a Vacancy, “Red Tape” Paperwork or Budget Approval**

# CONTINUOUS SENIORITY

**Escalator Principle:** Return to position service member would have attained if he or she had not left for military service

**Seniority:** Time in military service added to employee's record to maintain seniority ranking in company

**Benefits:** Same Privileges, Pension Plan, Discretionary Bonuses, Vacation Rate

# **NO CHANGE OF STATUS**

**Responsibilities, Location, Hours of Employment,  
Opportunity for Promotion, etc.**

**Service Member's Status Should Be What He or She  
Would Have Achieved if Continuously Employed, and  
Not Gone for Military Service**



# TRAINING

**Entitled to Training Service Member Would Have Received if He or She Had Been Continuously Employed**

# DISABILITY

**Employer Must Make Reasonable Accommodations for Disabled Veteran - Changes in Equipment, Work Methods, etc.**

**Alternatively...Right to Another Job within Company or Organization**

# HEALTH PLAN REINSTATEMENT

**Immediate Reinstatement of Coverage Upon  
Reemployment**

**No Waiting Period**

**No Consideration of “Pre-existing Conditions”  
Binding on Employer and Insurance Company**

# CHAIN OF ASSISTANCE & ENFORCEMENT

Unit Representative/Chain of Command

ESGR Office/Ombudsman Service

U.S. Department of Labor – VETS Office

**Can Conduct Formal Investigation**

US Department of Justice or Office of Special Counsel

Private Counsel

**Expense for Service Member, unless Court  
deems otherwise, if Service Member prevails**



# Concerns/Issues

- USERRA non-compliance by employers
  - May be caused by lack of awareness, fatigue/frustration
  - Service member options are:
    - ESGR mediation
    - DOL investigation
    - Hire a lawyer at their own expense
- Abuses by Service members
  - USERRA heavily weighted toward Service member
  - Electronic orders, drill schedules, are easily modified
    - Changing dates, changing POC contact info, etc.
    - Instances of civilians falsifying military orders to obtain military benefits from employers

# Employer Assistance

- Employers have the right to request verification of service, regardless of duration (DoDI 1205.12)
- Employers have the right to voice concerns over the timing, frequency and duration of uniformed service to an appropriate military authority (DoDI 1205.12)
- Military authorities are directed to consider written requests from employers to adjust absences (DoDI 1205.12)
  - Unless prevented by military necessity
  - Unless unreasonable or impossible under circumstances
- Designated representative defined as commander or officer in charge with “military authority to delay, defer, cancel, or reschedule military service” (DoDI 1205.12)\*

# USERRA Working Group

- Deputy Assistant Secretary of Defense, Reserve Integration
- Review USERRA policy/legislation in today's environment
- Military Departments, Reserve Components & Department of Labor
- Initially addressed gaps in employer assistance:
  - Voice concerns regarding timing, frequency and duration
  - Provide verification of Service, regardless of duration
  - Determine exemption status, calculate 5-year timelines
- Establish persistent Reserve Component POCs
- Clarify what periods of service are exempt (Service policy memo)
  - Statutory vs Secretarial authority
  - Ex: U.S.C. 12302 versus “critical mission or requirement”

# Assistance

## For Queries

**ESGR Guam-CNMI Office @ 671-735-0456 / 3803**  
**24 Hours – 7 Days-A-Week**

## For Information

**<https://www.facebook.com/ESGRGuam-CNMI>**  
**<http://www.esgr.mil/>**  
**1-800-336-4590 Option 1**



# Questions?

# Serving Our Nation - Together



***Thank You!***