

EMPLOYER SUPPORT OF THE GUARD & RESERVE



**“Building Relationships Between
Employers and Today’s Military”**



What is ESGR?



- **Employer Support of the Guard and Reserve (ESGR) is a Department of Defense Volunteer Organization.**
- **Secretary of Defense creates ESGR by Presidential proclamation in 1972 (end of draft)**
- **Today – Over 4,800 Citizen-Volunteers, 54 State Committees**

Guam-CNMI Committee Office @ (671) 735-0456



ESGR Vision



**“Develop and Promote a Culture
in which all American Employers
Support and Value the Military Service
of their Employees.”**

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ESGR Mission



**“Develop and Promote Employer Support for
Guard and Reserve service by **Advocating**
relevant initiatives, **Recognizing**
Outstanding support, **Increasing awareness**
of applicable laws, and **Resolving conflict**
between employers and service members”**

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Who do we serve?



We serve ALL Reserve Component members in the Guam-CNMI Region (2700+):



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

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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**



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 Service 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 DISCHARGED FOR
REASONS OTHER THAN PUNITIVE
DISCHARGE OR NON-HONORABLE
DISCHARGE**

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



TIMELY RETURN TO WORK



GATE 6

NOTIFY EMPLOYER AND RETURN TO WORK IN A TIMELY MANNER AS PRESCRIBED BY LAW

- Service < 31 Days = Report Next Day After Discharge Date; Allowing for Safe Return To Home + 8 Hrs Rest
- > 31-180 Days = Report Within 14 Days of DD-214 Date or end date on military orders
- > 180 Days = Report Within 90 Days of DD-214 Date or end date on military orders
- + 2 Years = For Hospitalization or Convalescence



ENTITLEMENTS

Guam-CNMI Committee Office @ 671-735-0456



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** – Applies to Benefits, Pay, Status, Etc.
- **Seniority** - Longevity in Employment & Accrued Related Benefits
- **Benefits** - Privileges, Status, Pension, Stock Plans, Medical or Health Insurance, Bonuses, Vacation Rate & the Opportunity to Select Hours & Work Location



NO CHANGE OF STATUS

- **Position, Responsibilities, Location, Hours of Employment, Opportunity for Promotion, Etc.**
- **When Reinstated, Service Member's Status Should Be What He or She Would Have Earned if Continuously Employed**



TRAINING



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



DISABILITIES



- **Employer Must Make Reasonable Accommodations for Disabled Veteran - Changes in Equipment, Methods, etc. to Enable Disabled Veteran to Perform**
- **Alternatively...Right to Another Job**



HEALTH PLAN REINSTATEMENT

- **Immediate Reinstatement of Coverage Upon Reemployment**
- **No Waiting Period**
- **No Exclusion of “Pre-existing Conditions”**
- **Binding on Employer and Insurance Company**



CHAIN OF ASSISTANCE & ENFORCEMENT

- Unit Representative/Chain of Command
- **ESGR Office/Ombudsman Service**
- US Department of Labor – VETS Office
 - - Can Conduct Formal Investigation
- US Department of Justice, Office of Special Counsel – US DOL Will Refer if Necessary
- Private Counsel (*Generally Out of Pocket Expense for Service Member*)



Who to call for help



Local Guam-CNMI Office

671-735-0456 (24-7)



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EMPLOYER SUPPORT OF
THE GUARD AND RESERVE
Guam-CNMI Committee



**Thank you for
participating in this
presentation!**

Our Team is dedicated to providing you...



the Best Service and Support.