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

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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

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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

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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*

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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)

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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

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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** – 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

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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

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ENTITLED TO TRAINING SERVICE MEMBER
WILL HAVE RECEIVED IF HE OR SHE HAD BEEN CONTINUOUSLY EMPLOYED
• 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

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

Program Administrators
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joblas67@gmail.com

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Thank you for participating in this presentation!

Our Team is dedicated to providing you... the Best Service and Support.