

STATEMENT FOR THE RECORD  
EMPLOYER SUPPORT OF THE GUARD AND RESERVE  
DEFENSE SUPPORT SERVICES CENTER  
DEPARTMENT OF DEFENSE  
BEFORE  
THE  
HOUSE COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE  
ON  
ECONOMIC OPPORTUNITY

March 9, 2023

Chairman Van Orden, Ranking Member Levin, distinguished members of the Committee, thank you for the opportunity to present the Department of Defense statement for the record for this oversight hearing on the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Across America, our Guard and Reserve Service members are trained, equipped, and ready with the critical capabilities needed to compete globally across a full range of military operations and to provide support to their local communities. In today's complex security environment, these citizen Service members leverage their professional skills while serving in uniform, adding value and depth to America's military force with skills, education, and expertise acquired in the private sector. These Service members are also teachers, first responders, doctors, lawyers, academics, scientists, engineers, cyber specialists, transportation specialists, and administrators at all levels. These Service members depend on the support of their families and communities, especially their civilian employers, to thrive in their military roles.

More than 50 years ago, the Department of Defense recognized the value of the support civilian employers provide to military employees, and in 1972 created the Employer Support of the Guard and Reserve (ESGR) office to gain and maintain employer support for an all-volunteer Force. Over the decades since, ESGR's mission expanded to include educating employers and Service members about the rights and responsibilities of USERRA. The Act is intended to ensure these Service members are not disadvantaged in their civilian careers because of their service, are promptly reemployed in civilian jobs upon their return from duty, and are not discriminated against in employment because of military status or obligations.

In support of the Secretary of Defense's priority to "Take Care of Our People," ESGR accomplishes its mission through effective military and employer outreach services, employer

recognition programs, and a broad range of assistance services. These services provide education on the applicability of USERRA and emphasize the importance of the National Guard and Reserve in our Nation's defense. Ensuring Service members understand their rights and benefits under USERRA is a key example of implementing the Secretary's priority to "Take Care of Our People."

In recent years, the Department has leaned heavily on our Guard and Reserve, such as during the COVID-19 pandemic when those Service members were critical in supporting public health initiatives and maintaining services across the country. As Guard and Reserve Service members have played increasingly important roles in protecting our Nation, it is equally important that their employment rights are protected. Educating and informing Service members and their families about USERRA's rights, benefits, and protections is important for the Department to recruit and retain the all-volunteer Force integrated between Active and Reserve components. Prospective Guard and Reserve Service members need confidence their civilian careers will not be adversely impacted by their uniformed service responsibilities, to ensure the Department's reliance on Reserve Component forces can support overall mission readiness.

ESGR plays a central role in protecting those rights, recognizes and supports employers to honor those rights. It works as a volunteer-centric program, with a nationwide network of over 2,800 dedicated volunteers with diverse backgrounds, who assist with employment concerns of Guard and Reserve Service members. These volunteers represent all walks of life; business executives, small business owners, civic leaders, retired military members, and patriotic citizens who have never served in the Armed Forces, but want to give back. In Fiscal Year 2022, ESGR volunteers served more than 180,000 hours to provide education and increase awareness

on the rights and responsibilities under USERRA, reaching 125,496 employers and 234,095 Service members.

ESGR's proactive efforts to increase awareness of related laws and DoD policies helps prevent disputes between Service members and their employers. By preventing disagreements through reduced confusion, ESGR's efforts serve as mission enablers by allowing Service members to concentrate on military service requirements. ESGR engages with Guard and Reserve leadership and appropriate staff elements through formal information sharing venues (e.g., office calls with Guard and Reserve Chiefs) and ad hoc communication in support of their readiness efforts. This sustained coordination at the staff level is critical to mutual success.

In addition, ESGR's Customer Service Center employs trained subject matter experts who provide prompt, telephonic and email responses to Service members and civilian employers on USERRA-related matters. In Fiscal Year 2022, ESGR responded to more than 13,000 inquiries and provided free confidential mediation services in over 1,100 cases with a 76% resolution rate. Nearly 400 ESGR volunteer ombudsmen across the country assist employers and Service members daily with USERRA matters, helping to resolve civilian employment conflicts that arise because of military service. These volunteers, along with ESGR headquarters staff, provide assistance, at no cost, to help Service members resolve workplace issues and improve relationships with civilian employers.

ESGR also assists employers by addressing concerns about the timing, frequency, and duration of service by connecting employers with the appropriate Guard or Reserve points of contact within chain-of-command. This could mean assisting a small business employer to contact a military commander and request a flexible drill schedule that supports their continuity of business operations or ensuring that an employer understands the rights of Service members

under USERRA. Although misunderstanding occasionally exist between employers and Reserve Component Service members during military duty, ESGR provides assistance to alleviate stress between parties and supports stronger communication, through the involvement of military chain-of-command, advanced notification of military service, and open-lines of communication while the employee is away.

ESGR's role regarding USERRA is limited to conducting outreach that does not conflict with investigations or other legal actions. ESGR assistance does not include cases where a Service member files a formal complaint with the Department of Labor Veterans' Employment and Training Service (DOL VETS) or when a Service member retains private legal representation. Regardless of the outcome of an ESGR USERRA mediation case, Service members can still file a case with the DOL VETS. ESGR and DOL VETS, however, work in collaboration to ensure USERRA educational materials are accurate and that all volunteer Ombudsmen are properly trained.

ESGR also offers a robust tiered awards program to recognize the many employers who go above what is required by law to support military employees. This support includes helping Guard and Reserve families by checking in after a natural disaster, sending care packages during an extended deployment, and continuing pay and benefits when a Reservist is activated. Most employer awards originate from Patriot Award nominations, submitted by Service members who recognize supportive supervisors. During Fiscal Year 2022, ESGR recognized 6,871 supervisors with Patriot Awards. ESGR is also currently reviewing 1,863 nominations for the Secretary of Defense Employer Support Freedom Award, the Secretary of Defense's highest honor bestowed on employers. The Freedom Award is presented annually to a maximum of 15 large, small, and

public-sector employers who have demonstrated exceptional support to Guard or Reserve employees.

In addition, during Fiscal Year 2022, ESGR obtained 5,245 Statements of Support from employers across the Nation. The intent of the program is to increase employer support through encouragement to act as advocates for employee participation in the military. Service members who know they have employer support, are more likely to stay in the Service and help recruit others. Employers who sign Statements of Support pledge that they will:

- Fully recognize, honor, and comply with the USERRA.
- Provide managers and supervisors with the tools they need to effectively manage employees who serve in the National Guard and Reserve.
- Appreciate the values, leadership, and unique skills Service members bring to the workforce, and encourage opportunities to hire Guardsmen, Reservists, transitioning Service members, and Veterans.
- Continually recognize and support our country's Service members and their families, in peace, in crises, and in war.

#### CONCLUSION:

In the two decades since September 11, 2001, over one million Guard and Reserve Service members have mobilized as part of the Total Force. Currently, over 30,000 are deployed to 23 countries in direct support of Geographic Combatant Commands, while stateside Service members directly support local communities through service related to natural disasters, declared emergencies, and more. ESGR and the Department of Defense as a whole remain committed to

our National Guard and Reserve Service members and their civilian employers as they deal with the challenges and complexities of balancing civilian and military life. Taking care of our Service members is one of Secretary Austin's top priorities. As important members of the Total Force, the Department will continue to provide our Reserve Component Service members and their families with the resources, services, and support they need.

In closing, Mr. Chairman, the Department of Defense thanks you, the Ranking Member, and the members of this Subcommittee for your outstanding and continuing support of the men and women who proudly wear the uniform in defense of our great Nation.