

**Statement**

**L. Gordon Sumner, Jr., PhD  
Executive Director**

**National Committee for Employer Support of the Guard and  
Reserve**

**Before the**

**Committee on Health, Education, Labor, and Pensions  
United States Senate**

**“Issues Relating to the Uniformed Services Employment and  
Reemployment Rights Act (USERRA) Program”**

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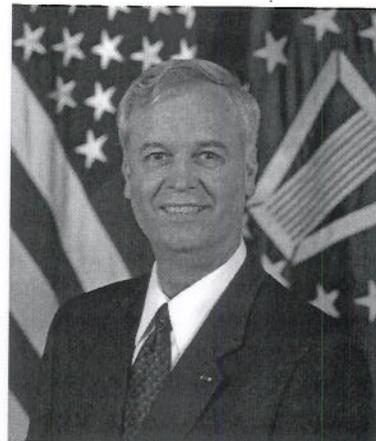


## L. Gordon Sumner, Jr., Ph.D.

Executive Director

### National Committee for Employer Support of the Guard and Reserve

L. Gordon Sumner, Jr. was appointed Executive Director, National Committee for Employer Support of the Guard and Reserve (NCESGR) by President George W. Bush on March 29, 2007. Dr. Sumner serves as advisor to the Assistant Secretary of Defense for Reserve Affairs on all matters involving employer support programs for all the Reserve components of the United States Armed Forces. These include the Army National Guard, Air National Guard, Army Reserve, Air Force Reserve, Naval Reserve, Marine Corps Reserve and the Coast Guard Reserve. The Executive Director is responsible for budget administration through the Department of Defense Planning, Programming, and Budgeting System and to provide administrative and logistical support for NCESGR, its staff and volunteer committees. As Executive Director, Dr. Sumner provides leadership and management for the programs and activities of more than 4,200 volunteers organized into 56 field committees throughout the states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.



Dr. Sumner has had successful careers as a civilian leader and a member of the United States Army. He recently was Vice President, Peduzzi Associates, Ltd., in Alexandria, VA with responsibilities for strategic development and operations management. He was the Managing Director, SYColeman Corporation, Arlington, VA, with program management responsibilities for the Army's Active Component / Reserve Component Integration Directorate; the Army Training Directorate's Resource and Program, Institutional, and Collective Training Divisions; the OSD, Department of the Navy, and the Defense Intelligence Agency's Foreign Language Program Offices. He served as program manager for the Army's Reserve Component Coordination Council and the Army Reserve Forces Policy Committee. Dr. Sumner has supported the NCESGR Committee and the Virginia ESGR Committee. He has served in key leadership positions within various national volunteer organizations as National Director, 82<sup>nd</sup> Airborne Division Association, a Trustee for the Military Order of the Purple Heart, and a member of the JSU Alumni Association's Board of Governors, Jacksonville State University, Jacksonville, Alabama.

Commissioned as a Reserve Officer, Dr. Sumner had a successful military career serving in a variety of Infantry, Air Defense, and Aviation command and staff positions worldwide. A decorated combat veteran, Airborne, Ranger, and Master Army Aviator, his last assignment prior to retirement in 1997 was Chief, Institutional Training Division, G3/ODCSOPS, Army Staff. As the Chief, his expertise of Reserve Components and the Army Training Strategy enabled him to assist the Army's Senior Leadership with prioritization, preparation, policy development and implementation of Army Training programs. Additionally, Dr. Sumner served as the Army's representative to the NATO's Army Training Sub-Group.

A 1975 graduate of Jacksonville State University, Alabama, he also received his Doctor of Philosophy degree from Madison University, an MBA from Auburn University, and a Masters in Education from Boston University. He is married to the former Vicki Leming and has one daughter, Andrea Michelle.

Dr. Sumner's military awards and decorations include the Legion of Merit (OLC), Bronze Star Medal, Purple Heart, Meritorious Service Medal (3OLC), Air Medal, and various other US and foreign awards.

Chairman Kennedy and members of the Committee: thank you for the invitation to offer my perspective on issues relating to the Uniformed Services Employment and Reemployment Rights Act (USERRA) program. Your invitation letter asked me to address the issues faced by returning Iraq/Afghanistan veterans when they come home and return to their civilian employment, with a focus on how the Uniformed Services Employment and Reemployment Rights Act (USERRA) is working to protect our returning veterans as they transition back into the workforce.

As you know, the Uniformed Services Employment and Reemployment Rights Act of 1994 protects the employment and reemployment rights of Federal and non-Federal employees who leave their employment to perform military service. The role of informing service members and employers about this law, and of enforcing it fall to several different government organizations. It should be noted that USERRA covers all employees and employers except screeners employed by the Transportation Security Administration.

Employer Support of the Guard and Reserve (ESGR) is a Department of Defense organization that seeks to develop and promote a culture in which all American employers support and value the military service of their employees. We do this by recognizing outstanding support, increasing awareness of the law, and resolving conflicts through informal mediation.

Gaining and maintaining employer support requires a strong network comprised of both military and civilian-employer leaders that is capable of providing communication, education and exchange of information. ESGR works with the Reserve component leadership from each

service, appropriate government organizations such as the Department of Labor's Veterans' Employment and Training Service (DOL-VETS), the Small Business Administration, and industry associations such as the Chamber of Commerce and others, to create broad-based, nationwide support for our troops.

It is important to note that ESGR is not an enforcement agency, and we do not have statutory authority to offer formal legal advice or to participate in any formal investigative or litigation process. Our part in the USERRA issue is to inform and educate our customers – service members and their civilian employers – regarding their rights and responsibilities under the USERRA statute. ESGR also provides informal mediation services. We have over 1,000 trained volunteer ombudsmen throughout the country and a national call center in Arlington, Virginia, to provide those services. Our call center received over 13,000 requests for assistance during FY07. Of those requests, 10,742 were informational in nature, that is, they were sufficiently resolved by providing information about the law. The remaining 2,374 were assigned as cases to our ombudsmen. Through a Memorandum of Understanding (MoU) between ESGR and DOL-VETS, ESGR informs those service members whose cases ESGR is unable to successfully mediate within 14 days of their options to either contact the DOL-VETS or to retain private counsel. During FY07, ESGR referred 416 cases to DOL-VETS. It should be further noted that the ESGR mediation process is now covered by the Administrative Dispute Resolution Act of 1996. This statute is fairly restrictive regarding the protection of privacy for all parties involved in the dispute. Thus, even for cases ESGR refers to DOL-VETS under our MoU, ESGR is unable to pass on any case information exchanged between claimants and ESGR ombudsmen without the written consent of all parties involved in the mediation.

ESGR's mandate ends at this point in the USERRA resolution process. As I understand it, DOL investigates and attempts to resolve claims filed by service members, and if not successful, DOL informs the Federal claimants that they may request to have their claims referred to the OSC, and informs non-Federal claimants that they may have their cases referred to the Department of Justice for further review and possible representation. Of course, all parties reserve the right to engage private counsel at any time.

As you know, 639,000 Reserve component members have been mobilized since the terrorist attacks on 11 September 2001. There are 93,898 RC members mobilized today (November 1, 2007). The use of the Reserve component has shifted from a strategic reserve to an operational reserve whereby the National Guard and Reserve no longer are forces held in reserve but are an integrated and integral part of our total force.

The Department is well aware of the stress this operational use has on our service members and their employers. To that end, Secretary Gates has provided policy guidance designed to give more predictability as to the frequency and duration of RC mobilizations so that both RC members and their employers can better plan their professional and personal futures.

As I stated earlier, ESGR operates proactive outreach programs to inform, educate, and recognize the employers of our service members. We do this to raise awareness of USERRA and to thank employers for their support. As you know, employers suffer twice the cost when their employees are mobilized for military duty. They lose their trained, productive employees and they have to often hire replacements for the time those employees are gone. We talk all the time about the costs borne by our service members, and by their families. Those are no doubt real costs. But we do not often talk about the costs borne by the employers of Guard and Reserve

members. These employers do not have a choice when we take away their employees for months. Despite these very real costs, employers across the country continue to provide incredible support, and it is the least we can do to publicly recognize that support.

All of our records, including the numbers of RC members who contact us to recognize their employers, to the day-to-day interaction ESGR volunteers across the country have with service members and employers, to the ever decreasing numbers of USERRA cases handled by ESGR, indicate that employer support for the Guard and Reserve remains strong. Of course there are instances of USERRA violations, but I urge caution to not interpret isolated but highly visible problems as broad-based policy problems.

We are working with the individual uniformed services to raise awareness of USERRA and to provide training about USERRA to all RC members. We also continue to work with the appropriate Federal government agencies such as the DOL-VETS, the Department of Veterans Affairs, and the Small Business Administration, to better communicate to service members and their employers about USERRA, transition assistance and reintegration programs.

The Department has also provided ESGR more resources over the past five years to better serve our customers and we now have 150 full-time staff around the country in addition to the almost 4,500 volunteers. We also have a national customer service center that is operational 12 hours per day during the workweek to provide service.

We continue to believe that the existing USERRA process will continue to best serve the interests of service members, whereby the Department of Defense, through the ESGR organization, provides informal mediation, and the Department of Labor continues to have the

statutory authority to investigate USERRA claims. ESGR and DOL will, of course, continue to collaborate to the fullest extent possible to ensure the speediest and most effective resolution of USERRA challenges.

For our part, ESGR will continue its mission to gain and maintain employer support by recognizing outstanding support, increasing awareness of the law, and resolving conflicts through informal mediation, and by cooperating to the fullest extent allowable with the Department of Labor.

I hope that I have been able to clarify the role played by the Employer Support of the Guard and Reserve in helping to explain, and where applicable, mediate, issues involving the Uniformed Services Employment and Reemployment Rights Act. Thank you.