



February 6, 2001

ASVET MEMORANDUM NO. 02-01

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND DIRECTORS FOR
VETERANS' EMPLOYMENT AND TRAINING

FROM: *Stanley A. Seidel*
STANLEY A. SEIDEL
Director, Operations and Programs

SUBJECT: Policy Regarding Veterans' Employment and Training Service
(VETS) Employees Serving as Members of State Committees for
Employer Support of the Guard and Reserve (ESGR)

Reference: Uniformed Services Employment and Reemployment Rights Act
of 1994 (USERRA, 38 U.S.C. §§ 4301-4333)

I. Purpose: To provide guidance to VETS' staff concerning support of, and membership in ESGR State committees. To establish formal limitations on the level of participation by VETS staff as ESGR committee members.

II. Background: ESGR is an organization within the Department of Defense whose primary mission is to promote cooperation and understanding between members of the National Guard and Reserve and their civilian employers. ESGR has programs designed to educate employers about the benefits of employing members of the Guard and Reserve as well as employer obligations under USERRA. A component of the Office of the Assistant Secretary of Defense for Reserve Affairs, ESGR consists of a small full-time staff located in Arlington Virginia and more than 4,000 volunteers, organized into committees in all the States and territories.

The relationship between VETS and ESGR is based on the language of section 4321 of USERRA, which provides that VETS will assist persons with respect to their rights and benefits under the law. In providing such assistance, VETS may request help from other agencies and utilize the assistance of volunteers. ESGR has proven to be an extremely valuable resource. Volunteers provide USERRA outreach information to employers and to Reserve component units. Ombudsmen in the ESGR national office and State committees help resolve disputes through informal mediation efforts before those disputes become formal USERRA complaints to VETS.

A significant number of VETS staff volunteer their time and talent to serve as members of State ESGR committees. Both organizations benefit from such membership. However, there are levels of participation by VETS staff as ESGR committee members that could lead to a conflict of interest, either actual or perceived. There is a clear conflict if a VETS investigator were to serve as an ESGR ombudsman.

Similarly, problems could arise if VETS staff were to hold other ESGR leadership positions. For example, ESGR State Chairs host employers at events such as awards banquets, field trips to military installations, networking luncheons with Guard and Reserve commanders and the like. An employer receiving a subpoena for documents or testimony of employees from that same "host" now acting as a VETS investigator could not be expected to react in a positive manner. Even the perception of a conflict of interest could lessen the credibility and thus the effectiveness of both VETS and ESGR in the employer community.

VETS employees are encouraged to support ESGR activities in their States within the limits set forth in the following guidance.

III. Guidance:

- A. VETS staff members are encouraged to participate with ESGR committees in their States as "ex officio" members and as resources for information on VETS programs and activities, particularly the USERRA program.
- B. VETS employees may not serve in leadership positions on State ESGR committees, such as State Chair, Executive Director, Ombudsman, or Public Affairs Director. If doubt exists as to whether a particular committee position may be accepted, the employee involved must receive approval from his or her Regional Administrator (RA) before agreeing to take the position..

IV. Action: RAs ensure that assigned staff are aware of and comply with the guidance in this memorandum.

V. Effective Date: This memorandum is effective immediately.

VI. Inquiries: Direct inquiries to Nick Dawson at (202) 693-4711.

VII. Expiration Date: None