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OSC Continues to Enforce USERRA in the Federal Sector

FOR IMMEDIATE RELEASE

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In fiscal year 2015, the U.S. Office of Special Counsel (OSC) protected the job rights of National Guardsmen, veterans, and Reservists employed by the federal government. Since 1994, OSC has enforced the Uniformed Services Employment and Reemployment Rights Act (USERRA). USERRA protects service members and veterans from employment discrimination and allows them to regain their civilian jobs and benefits upon their return from service. OSC's jurisdiction is limited to USERRA cases filed by service members and veterans who hold jobs (or apply for jobs) with federal executive agencies. OSC receives USERRA cases from the Department of Labor (DOL) following an initial investigation and attempted resolution by DOL.

Some examples of USERRA cases OSC successfully resolved during the fiscal year are:

- An Army Reservist sustained injuries during military service, rendering him unable to perform his former duties as a Federal Air Marshal after his discharge. OSC intervened and negotiated a settlement whereby the agency agreed to place the Reservist on paid light duty for approximately six months while his disability retirement application was processed.
- The Air Force refused to allow the reemployment of an Army National Guard member as a federal contractor following his return from active duty. As a result, he was unemployed for several months before finding a new job. OSC informed the Air Force that it could be liable for improperly interfering with the Guardsman's reemployment rights under USERRA. After OSC's intervention, the Air Force agreed to pay the Guardsman \$18,500 in lost wages as compensation.
- While working as a Deputy U.S. Marshal, an Air Force Reservist was deployed for several months in support of Operation Enduring Freedom. After returning to his civilian employment, he received a lower-than-usual performance rating, resulting in a significantly smaller performance bonus than he had received in the past, and which he was told was due to his absence for military duty.. As a result of OSC's intervention, the agency agreed to retroactively upgrade the Reservist's performance rating, grant him a time-off award, and give him additional hours of paid leave to approximate the cash award he should have received.
- After a year-long call-up to active duty with his National Guard unit, an Army civilian police officer alleged that he was not promoted to the next higher grade level at the same time as his co-workers (who were not deployed). As a result, he missed out on a promotional opportunity because he lacked the necessary time-in-grade. After OSC's investigation, the agency offered the Guardsman full relief, including a retroactive promotion and corresponding back pay.
- A National Guardsman alleged that his federal agency threatened him with termination because the agency believed his military service made him "unreliable." His agency also denied him other benefits of employment, including overtime, temporary overseas duty assignments, promotion, and training. OSC's Alternative Dispute Resolution (ADR) Unit mediated the case. As a result, the Guardsman agreed to withdraw his USERRA claim in exchange for both monetary and time off awards, an assigned mentor to help prepare him for advancement, and the opportunity for a temporary overseas duty assignment. The agency also agreed to conduct USERRA training for supervisors and managers to reduce the risk of future USERRA violations.
- A Guardsman alleged that his federal agency violated USERRA's reemployment requirements when it assigned him to a different geographical region upon his return from a deployment, resulting in a loss of status and pay.

OSC's ADR Unit mediated a settlement whereby the Guardsman was reassigned back to his pre-deployment position and group, making him whole under USERRA.

"OSC will continue to fight for the civilian job rights of veterans and members of the National Guard and Reserves," said Special Counsel Carolyn Lerner. "We are committed to ensuring that the Federal government is a model employer for those who serve our country in uniform."

In addition to protecting their federal civilian employment rights, OSC has worked in its other program areas to improve the federal government's treatment of veterans, such as working with Department of Veterans Affairs (VA) whistleblowers to remove threats to patient health and safety in VA medical facilities and protecting VA whistleblowers from retaliation.

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at www.osc.gov.