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OSC Assists Federal Workers in National Guard and Reserves with Employment Claims

FOR IMMEDIATE RELEASE

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The U.S. Office of Special Counsel (OSC) has recently resolved a number of cases on behalf of service members under the Uniformed Services Employment and Reemployment Rights Act (USERRA), and assisted two federal agencies in revising regulations to comply with the law. USERRA prohibits employment discrimination against federal workers who serve in the National Guard and Reserves, and ensures their prompt reemployment in civilian jobs following service.

- During a Reservist's 13-month deployment, the Air Force eliminated his job as a civilian maintenance supervisor at a large domestic Air Force base and refused to reemploy him. Under USERRA, the Air Force was obligated to reemploy him for at least one year. Because the Reservist found other employment and did not wish to return to the Air Force, OSC negotiated a resolution where he received compensation of one year's worth of salary and benefits to settle his claim.
- A Marine Corps Reservist being onboarded as a federal agent by the Department of Homeland Security (DHS) was recalled to active duty for one year. When the Reservist returned, DHS re-started the process, but did not hire him for several more years. Because of his delayed hiring and lower seniority, he had to commute a long distance and work less desirable shifts. Citing USERRA's goal of minimizing disadvantages to service members' civilian careers, OSC convinced DHS to provide him with a retroactive hiring date for seniority purposes, improving his chances of getting a better duty location and shift assignments.
- A U.S. Postal Service (USPS) postmaster recalled to active duty as a Navy Reservist for three months did not receive a performance award like her peers. OSC intervened and persuaded the USPS to issue the Reservist a retroactive award in the same amount she would have received had she not been absent for military duty.
- A Department of Veterans Affairs (DVA) supervisor refused to approve a nurse's request to use paid military leave for a week of Reserve duty and instead marked her as "absent without leave" (AWOL). He also incorrectly cited her for failing to provide sufficient notice of her military service. After OSC contacted DVA and explained USERRA's requirements, it revised her timecards to reflect paid military leave (not AWOL) for her duty.
- OSC provided technical assistance to the Department of Defense (DOD) on modifications to a regulation that created a distinction between "career" and "non-career" military service. At OSC's urging, DOD eliminated the distinction in its military and civilian regulations so that it could not be used to improperly deny reemployment rights to certain service members under USERRA.
- OSC provided technical assistance to the Peace Corps in revising its eligibility requirements for Peace Corps volunteers who serve in the National Guard or Reserves. With OSC's help, the Peace Corps amended the requirements to ensure that it does not exclude service members from participation.

"OSC plays a key role in ensuring that the Federal government is a 'model employer' under USERRA," said Special Counsel Carolyn Lerner. "We appreciate these agencies' efforts to work with OSC to help fulfill that promise."

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.