

From: Maximillian Potter <maxpotter@5280.com>
Date: June 2, 2006 5:46:34 PM MDT
To: foia@whs.mil
Cc: Stephanie L CIV NGCO Masura <stephanie.masura@US.army.mil>, ESGR.OMB@osd.mil
Subject: FOIA request/5280 magazine

Freedom of Information Act (FOIA) Request

Department of Defense
Office of FOIA
1155 Defense Pentagon
Washington, D.C. 20301-1155

Maximillian Potter □
1514 Curtis Street, Suite 300 □
Denver, CO 82022 □ 303.832.5280

June 2, 2006

FOIA REQUEST

Fee benefit requested
Fee waiver requested
Expedited review requested

Dear Department of Defense FOI Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of notes, memorandums, minutes on USERRA-based employer-employee disputes ("cases" or "files") mediated in the state of Colorado since 2004 to the present by representatives or "Ombudsman" of the organization called, Employer Support of the Guard and Reserve (ESGR), which operates under the auspices of the Department of Defense. (USERRA is the Uniformed Services Employment and Reemployment Rights Act.)

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Through this request, I am gathering information on how the Colorado branch of the ESGR operates/handles cases/advises US service men and women and their civilian employers. This information is of current interest to the public because US National Guard and Reservists comprise 46 percent of America's military manpower; these service men and women are leaving their jobs for tours of duty and upon returning to civilian life, can find that regaining employment is challenging. ESGR exists to assist these service men and women and their employers work through any differences the two sides may have regarding re-employment. According to ESGR, "it is the lead DoD organization for this mission under DOD directive 1205.1.

This information is being sought on behalf of *5280: Denver's city magazine* for dissemination to the general public. Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. Understanding USERRA, how US service personnel of the Guard and Reserve ought to deploy and return to civilian professional life, and the rights afforded them under USERRA is critically important to these service men and women and to the public at large. ESGR mediates USERRA cases/files/discussions; it is a volunteer and paid-staff organization operating under a federal agency and federal directive. During this time of war and budgetary challenges/votes/referendums, the public has a compelling need and right to the information contained in the materials requested.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees. According to a Colorado USERRA official, parties who enter into USERRA mediation(s) do not sign confidentiality agreements of any kind.

Please provide expedited review of this request, which concerns a matter of urgency. As a journalist, I am primarily engaged in disseminating information. The public has an *urgent need* for information about how ESGR functions, and spends federal money under the auspices of the Department of Defense. The public has a right and a need to know this *as soon as possible* because a) there are and/or will be active ESGR cases unfolding, b) I have reason to suspect that Guardsmen and Reservists in the state of Colorado may not be getting the full measure of protection afforded them by USERRA. I certify that my statements concerning the need for expedited review are true and correct to the best of my knowledge and belief.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

Maximillian Potter

emailed on June 2, 2006; hardcopy mailed June 5, 2006

cc: Committee for ESGR, Centennial Colorado; National Committee for ESGR, Arlington, VA; Staff JAG Joint Force H.Q. Colorado National Guard

Maximillian Potter
Executive Editor,
5280 Magazine
1514 Curtis Street
Suite 300
Main: 303.832.5280
www.5280.com