

Notice to Employees Military Leave of Absence

Uniformed Services Employment and Reemployment Rights Act (USERRA) Information

This Notice provides information regarding employment and reemployment rights due to periods of military duty in any branch of the Armed Forces of the United States, any of its reserve components, any of its National Guard components, the commissioned corps of the Public Health Service, or the National Disaster Medical System for the purpose of training or service. The absence provisions described below are consistent with the USERRA (38 U.S.C. §4301-4335) and Pennsylvania Law except where more generous benefits are granted by the commonwealth.

Documentation from Military

Beginning of Military Duty: A copy of the military orders must be provided to your University Human Resources Department to determine eligibility for paid military leave, continuation of health benefits, continuation of pension benefits, and stipends during military duty. If military orders are not issued, other written authorization from the military unit must be provided, such as a memo from the commanding officer. Documentation should be provided prior to duty or as soon as possible thereafter. **Note:** Some of the benefits explained in this Notice may not be available until adequate documentation of the military duty is provided.

Extension or Change of Military Duty: If the orders or other documentation do not cover the entire period of absence, a copy of the amended or extended military orders must be provided when issued.

End of Military Duty: For active duty periods of more than 30 calendar days, a DD-214 or other written documentation must be provided upon return to work or when available which reflects the date of release from duty and shows that the release from duty was honorable.

Absence Information

Absence Requests: Advanced notice of military duty is required via written or oral communication, except where military necessity prevents notice or notice is impossible or unreasonable. For all periods of military duty, the *Request for Military Leave of Absence* form should be completed and returned to your University Human Resources Department as soon as possible. Timeliness is important since elections of benefits may have certain time limits.

Paid Military Absence Entitlements: Based upon the type of military duty, reservists and members of the National Guard may be eligible for the following paid military absences. If the period of military duty spans two or more leave calendar years, paid military absence to which an employee is entitled will be applied at the beginning of the next leave calendar year, unless a specific request is made to use it for another expected military leave of absence in that year. **Note:** Military members who have chosen to enlist full-time and those who are part of the Commissioned Corps of the Public Health Service or the National Disaster Medical System are not eligible for paid military absence benefits.

Military Type	LOA Reason Code	Entitlement	Acceptable Use
Basic Military	Military USERRA	Up to 15 days per leave calendar year	Active duty or inactive training duty for permanent and non-permanent employees
PA Law	Military USERRA	Up to 15 days per leave calendar year	<ul style="list-style-type: none"> - Active duty of at least 30 consecutive days performed at least 50 miles away from both home duty station and place of residence, and - Involuntary or is performed in a zone of combat, in response to a domestic emergency or pursuant to a contingency operations service agreement, and - Authorized under 10 USC 12301, 12302, or 12304, or 32 USC 502(f)
Executive Board Resolution	Military USERRA	Up to 15 days per career	<ul style="list-style-type: none"> - Active duty for permanent employees - Another state's national guard is eligible only for homeland security reasons
Active State Duty	Military Non-USERRA	Unlimited	- PA National Guard active state duty ordered by Governor for emergency in Pennsylvania

Other Paid Absence Entitlements: Accrued (actual) annual/combined, personal, compensatory, and holiday absence may be requested to be used during a military leave of absence in lieu of paid or unpaid military leave.

Absence and Service Accrual: Annual/combined, personal, and sick quotas accrue only while in a paid status. Leave service credit accrues when one hour is paid in the pay period.

Payment of Accrued (Actual) Absence Quota: Employees may request, in writing, a lump sum payment for accrued (actual) annual/combined, personal, compensatory, and holiday absence at the beginning of an unpaid military absence for active duty or at the beginning of the next leave calendar year, if the employee remains on military duty. In the *Request for Military Leave of Absence* form, mark the boxes as desired in the section Absence Benefits, Payment for Quota. **Note:** Quota that is paid out may not be bought back, and retirement contributions are not withheld from lump sum payments for absence.

Unpaid Military Absence Entitlements: Military leave without pay is typically approved for military duty when an employee is not eligible for paid military absence benefits.

Benefit Continuation Information

In accordance with the Affordable Care Act, health benefits *eligibility* will continue during all absences for military duty covered by USERRA. In order for benefits to continue during an unpaid military leave of absence, all employee premiums must be paid; for employees covered under the PEBTF, you will receive a bill monthly for any required employee contributions or buy-ups normally taken as payroll deductions. If those bills are not paid, you and your dependents' health benefits will be canceled and you will be responsible to reimburse the PEBTF for any claims that you or your dependents incurred. For employees covered under the State System health plan, you will receive a billing notice from the central benefits office. If you choose not to continue coverage, select the option to decline coverage on the *Request for Military Leave of Absence* form, within 60 days of the first date of absence. Contact your University Human Resources Department with questions regarding continuation or declination of health benefits.

Group life insurance benefits will continue. Contact MetLife at 855.972.5433 for questions about continuation coverage.

Stipend Payment Information

During periods of unpaid military absence while on active duty, permanent employees are eligible for monthly stipend payments of \$520; payments are prorated for partial months.

Retirement Plans: SERS, PSERS or ARP Information

Retirement Contributions: Retirement contributions will **not** be deducted from employees' pay during absences for military duty, including **any paid leave** used in lieu of military leave. Employees may request to pay their employee contribution upon returning to work. The request and employee contributions due must be received by your retirement plan no later than three times the length of your military leave or five years, whichever is less. Employees will always have a minimum of 30 days to request to pay their employee contributions upon returning to work. USERRA provides that retirement credit may be received for military leave by paying the contributions that would have been paid if employees were not on military leave, but employees must pay in full within specific timeframes. **USERRA does not permit the purchase of military service if the timeframes are exceeded.**

Employees enrolled in SERS or PSERS should contact SERS or PSERS directly with any questions to determine whether the purchase of service (paying the employee contribution) will increase their retirement benefit. Employees enrolled in the ARP plan should contact their University Human Resources Department.

Additional Information for Employees enrolled in SERS:

Should Military Service be Purchased? An important component in calculating retirement benefits is "years of credited service." In general, one year of credited service is received for working 1,650 hours in a calendar year. If **more than 1,650 hours** are worked in the calendar year (as most employees do), employees still only earn one year of credited service. Thus, if employees work at least 1,650 hours during the year, excluding time for military duty, years of credited service will not be increased by purchasing military service. However, if employees will **not** work at least 1,650 hours, employees can increase credited service by purchasing military service. If the employee is expected to work 1,650 hours in one calendar year, it may not be advantageous to purchase military leave.

Another important component of retirement benefits is “final average salary.” If employees are on military leave with pay, their earnings will be included in the calculation of the final average salary regardless of whether military service is purchased or not. If, however, employees use military leave without pay, their salary that would have been earned will not be included in the calculation of the final average salary until the military service is purchased. An employee’s highest earnings are usually in the last years of work. If an employee is not planning to retire within three years from returning from military leave, it may not be advantageous to purchase military leave.

A third important component of retirement is “eligibility points.” Eligibility points are used to determine when employees can vest in the pension plan, or in other words, when employees qualify for monthly annuity payments from SERS. Eligibility points are accrued during USERRA leave, regardless of whether service is purchased or not. Eligibility points are credited to the member’s retirement account when the member is reemployed.

If you elect to purchase military time, SERS provides at least 30 days from the date of the *Invoice of Amount Due* to pay your employee contributions. For absences less than 30 days, payment must be made in a lump sum. For absences greater than 30 days, employees may choose between lump sum payment or payroll deductions. No interest will be added to the amount of contributions owed. More information will be provided in the *Invoice of Amount Due* sent by SERS.

If the request and payment is not made or if all payments are not made within the established timeframe, employees will not be able to purchase this military time later. In the case of partial payments, only the portion of time that was paid for will be added to service credit.

Non-USERRA Military Leave Purchases: Non-USERRA military leave can be purchased as non-intervening military service at any time while an active contributing member of SERS, provided the eligibility requirements are met. You will need to contact SERS to request to purchase this service.

For questions about military service purchases, please contact the SERS Regional Counseling Center at 800.633.5461.

Return to Work Information

Application for Reemployment: An *Application for Reemployment after Military Leave of Absence form* must be submitted for absences of more than 30 days. Employees shall be offered an opportunity to return to work when:

- prior oral or written notice of the impending duty was provided;
- the five-year cumulative period of military duty was not exceeded;
- the period of service was completed without having received a punitive or other than honorable discharge, or having been dismissed or dropped from the rolls of the uniformed service; and
- the *Application for Reemployment after Military Leave of Absence form* was submitted timely or the employee reported back to work in a timely manner.

Delay in Returning to Work: Employees are expected to return to work at the expiration of military duty, unless a delay in return to work is requested on the *Application for Reemployment after Military Leave of Absence form*, which is covered by and in accordance with USERRA as explained below. Employees must notify their supervisor and the University Human Resources Department at least 24 hours in advance of their expected return to work if returning to work sooner than the expiration of military duty or requesting to delay the return.

Duty Length	Maximum Delay Allowed
0-30 days	No delay. Must report to work the next regularly scheduled work day on the first full day following completion of duty and expiration of an eight hour rest period, including travel to residence
31-180 days	No later than 14 days after duty
181+ days*	No later than 90 days after duty

* For hospitalization or convalescence from illness/injury incurred during military duty, employees may return up to two years after duty or when recovered, whichever occurs sooner.

If employees delay their return to work, military leave without pay will be charged during the delay. Benefits may be affected. Refer to the Benefit Continuation Information section above. Employees may choose to use accrued (actual) annual/combined or personal absence prior to military leave without pay. Stipends are not paid during a return to work delay. For illness/injury, paid or unpaid sick leave of absence may be approved upon receipt of appropriate medical certification.

Return to Work with Medical Restrictions: Employees who are able to return to work, but with limitations due to an injury/illness sustained during the line of duty, must have the job duty restrictions documented by the health care provider, and an approval to return to work with restrictions must be granted in writing before returning to work.

Maximum Military Entitlement

Entitlement: Employees are entitled to a military leave of absence for up to five cumulative years during their careers. Paid leave used for a military leave of absence is not counted against the five-year entitlement. Employees will be notified when nearing the maximum entitlement.

Exclusions to the five-year entitlement: Certain periods of military duty are not counted toward the five-year entitlement and are defined in USERRA 38 U.S.C., §4312(c) as follows:

- “(1) that is required, beyond five years, to complete an initial period of obligated service;
- (2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;
- (3) performed as required pursuant to section 10147 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or
- (4) performed by a member of a uniformed service who is—
 - (A) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;
 - (B) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;
 - (C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10;
 - (D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or
 - (E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 12406 of title 10”

Questions

Questions concerning military absences or benefits may be referred to your University Human Resources Department.