**Military Leave**

**General Information**

* Paid military leave may apply to employees in full-time equivalent (FTE), temporary grant (TGE), time-limited project (TLP) and state temporary positions.
* Employees with official military orders are eligible for paid military leave to engage in training or any other duties to which they are lawfully ordered.
* All written or oral orders are considered official military orders when issued by an official military authority. An employee is required to provide official written military orders at the agency's request; however, written military orders may not be available before the employee is required to leave for military service.
* An employee may use the 15 regularly scheduled average workdays normally used annually for short‐term military training to engage in training or any other duties to which he is lawfully ordered including active military service in response to an executive order for a declaration of an emergency.
* Employees who use the 15 regularly scheduled average workdays of short‐term military leave should make a one‐time declaration of whether the year is a considered calendar or federal fiscal year. Typically, this determination is based on the year used by the employee's military unit.
* If an employee uses a portion of the 15 days of short‐term military leave, an employee may use the remainder of the days for active military service if the unused portion of the 15 days is in the same year.
* The 15 workdays of short‐term military leave are not required to be consecutive.
* The 15 days of short‐term military leave are based on regularly scheduled average workdays.
* An agency cannot refuse military leave to an employee who has official oral or written military orders.
* If an employee who is eligible for holiday leave is out on military leave and a holiday falls on a regularly scheduled workday, the employee should receive the holiday and the holiday would not count towards military leave.

**Travel Time**

* The 15 days of short‐term military leave cannot be used for travel time outside of the dates on the orders. If available, an employee may request annual leave, compensatory time or leave without pay for travel time to get to the assignment outside of the dates on the order.

**Additional Military Leave**

* In accordance with **S.C. Code Section 8‐7‐90**, an employee who receives official military orders to serve during a declared emergency is entitled to 30 days of paid leave per declared emergency in addition to the 15 workdays of paid military leave granted each year.
* In accordance with **S.C. Code Section 8‐7‐90**, a full-time employee who serves on active duty in a combat zone and who has exhausted all available military leave is entitled to receive up to 30 additional days of military leave in any one year. Part-time employees are not eligible.
* The 15 days of short‐term military leave and the 30 additional days of leave for a declared emergency are based on regularly scheduled average workdays.
* In addition, a permanent full-time state employee, who earns annual or sick leave, may use up to 45 days of annual leave and up to 90 days of sick leave in a calendar year to serve on active duty because of an emergency or conflict declared by the President of the United States.

**Volunteers for Military Service Assignment**

* An employee who volunteers for a military service assignment and an official military order is issued, is eligible to receive paid military leave.

**Leave Without Pay for Military Service**

* An employee in a leave-earning position who works or is on paid leave at least half of their scheduled workdays for the month, is eligible to receive their monthly annual and sick leave accruals. In general, employees on extended periods of leave without pay for military service do not accrue annual or sick leave during the period of leave without pay. The state service date, continuous service date and leave accrual date must not be adjusted for an employee on a military tour of duty with reemployment rights protected under federal or state law.

**Reemployment Rights**

* In accordance with the Uniformed Service Employment and Reemployment Rights Act (USERRA), an agency must reemploy employees returning from military service as long as the length of military service does not exceed five years.
* USERRA provides that returning service members are to be reemployed in the job that they would have attained had they not been absent for military service (the "escalator" principle), with the same seniority, status and pay, as well as other rights and benefits determined by seniority. USERRA also requires that reasonable efforts (such as training or retraining) be made to enable returning service members to qualify for reemployment. If the service member cannot qualify for the "escalator" position, he or she must be reemployed, if qualified, in any other position that is the nearest approximation to the escalator position and then to the pre-service position. USERRA also provides that while an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other similarly situated individuals on non-military leaves of absence. The time limits for returning to work are as follows:
	+ Less than 31 days service: By the beginning of the first regularly scheduled work period after the end of the calendar day of duty, plus time required to return home safely and an eight-hour rest period. If this is impossible or unreasonable, then as soon as possible.
	+ 31 to 180 days: The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
	+ 181 days or more: The employee must apply for reemployment no later than 90 days after completion of military service.
	+ Service-connected injury or illness: Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.

**Performance Review Date**

* Employees on approved military leave with or without pay for more than 30 consecutive workdays may have their performance review date advanced up to 90 calendar days after those first 30 workdays.

**Insurance and Retirement Services**

* Employees should contact their agency's benefits administrator or [South Carolina Public Employee Benefit Authority (PEBA)](https://www.peba.sc.gov/) for questions on insurance or retirement.
* An employee on leave without pay due to military service will be allowed to remain on the active group insurance programs (health and dental) and provide coverage for any dependents by paying the active employee share only for health and dental coverage.
* If the employee elects to cancel coverage during their active duty status, their coverage can be reinstated when they are discharged or released from active duty and resumes employment. The request must be made within 31 days of discharge.
* An employee on leave without pay due to military service can:
	+ Continue to pay contribution to the State Retirement System during leave of absence by completing the Supplemental Service Report (Form 1224); or
	+ Arrange to contribute retroactively when they return from military service.
* For individual account questions, the employee can contact PEBA’s customer service department at 803‐737‐6800.

**Employment Issues for State Employees Serving in the Military**

State employees called to active military service have unique rights and benefits. For more information, please

follow the links below.

* [U.S. Department of Labor ‐ Veterans' Employment and Training Service (VETS)](https://www.dol.gov/agencies/vets) — Provides access to technical information and other resources to help employers understand and implement the [Uniformed Services Employment and Reemployment Rights Act (USERRA)](https://www.dol.gov/agencies/vets/programs/userra).
* [Employer Support of the Guard and Reserve (ESGR)](https://www.esgr.mil/) — This organization provides information to support employers with employees in the National Guard or military Reserves.