

Military Leave

General Information

- Employees in FTE, temporary grant, or time-limited positions with official military orders are eligible for paid military leave to engage in training or any other duties to which they are lawfully ordered. Temporary employees are not eligible for paid military leave.
- 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 considered calendar or federal fiscal. 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 the employee is out on military leave and a holiday falls on a regularly scheduled work day, 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. An employee may however, request annual leave, compensatory time, or leave without pay for travel time to get to the assignment outside of the dates on the order.

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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**, an employee who serves on active duty in a combat zone and who has exhausted all available leave for military purposes is entitled to receive up to 30 additional days of military leave in any one year.
- 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, an employee 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 as a result 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 will not be eligible for leave accrual and merit increases while in leave without pay. The state service date, continuous service date, and leave accrual date will not be adjusted during periods of leave without pay for military service. An employee who returns to work within five years will be entitled to any general increase(s) that occurs while on active service.

Reemployment Rights

- In accordance with the Uniformed Service Employment and Reemployment Rights Act (USERRA), an agency must reemploy employees who occupy an FTE position (including those in a probationary or trial period) returning from military service as long as the length of military service does not exceed five years. Under USERRA, "an employer is not required to reemploy a person under this chapter (38 USC § 4312) if the employment from which the person leaves to serve in the uniformed services is for a brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period." An employee in a temporary capacity does not have reemployment rights.
- The reemployment rights a person receives upon return from military service depend on the duration of the time spent in military service:
 - State employees who return to work after military service of one to 90 calendar days retain the same position;
 - State employees who return to work after serving at least 91 calendar days but not more than five years are entitled to a comparable position within the agency (with the same band and pay rate) for which the employee is qualified; or,
 - State employees are not entitled to Veteran Reemployment rights after an absence of five years.

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- When an employee is released from military service, the employee must notify the agency of the intent to return to work within the required time periods below in order to retain reemployment rights:
 - Military service of 1 to 30 days; the employee must return to work at the beginning of the first regularly scheduled workday or eight hours after the end of military service. A reasonable commuting time from a military service post to home must be taken into consideration by the agency;
 - Military service of 31 to 180 days; the employee must contact the agency no later than 14 days after completion of military service; or,
 - Military service of 181 or more days; the employee must contact the agency no later than 90 days after completion of military service.

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 \(PEBA\)](#) 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 the State Retirement System at the numbers listed below:
 - The employer representative (803-737-6903).
 - Customer service (803-737-6800).

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Employment Issues for State Employees Serving in the Military

State employees who may be called to active military service have unique rights and benefits. The following websites will provide employers in state government with information and other resources concerning employees serving in the military.

- [U.S. Department of Labor - Veterans' Employment and Training Service \(VETS\)](#) — Provides access to technical information and other resources to help employers understand and implement the [Uniformed Services Employment and Reemployment Rights Act \(USERRA\)](#).
- [Employer Support of the Guard and Reserve \(ESGR\)](#) — This organization provides information to support employers with employees in the National Guard or military Reserves.