

Military Leave

(revised 9/1/09)

The following is an overview of Texas State employees' rights, responsibilities and benefits when taking military leave.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that bars discrimination on the basis of uniformed service and provides reemployment rights to veterans and other members of the uniformed services.

- Under USERRA, following leave for uniformed service, an employee must be permitted to return to work. In general, the employee must be returned to the same position or a position of similar seniority, status and pay.
- USERRA's protection only extends to those whose service ends honorably.
- The service can be either voluntary or involuntary and includes both training and active duty service.
- The employee must provide advance notice, either oral or written. No advance notice is required, however, if precluded by military necessity or would be impossible or unreasonable to give. A Texas State employee should complete an Application for Leave Approval form and submit it to his or her supervisor with a copy of the military orders.
- Restoration rights are provided for leave not to exceed a cumulative period of five years. However, there are exceptions to the five-year period.
- The employee must be physically and mentally qualified to perform the duties of the position at the time of restoration.
- The employee must return to work within a timely period upon return from service:
 - Service less than 31 days -- must return the next full work day that starts at least 8 hours after returning home
 - Service more than 30 days but less than 181 days -- must return no later than 14 days
 - Service more than 180 days -- must return no later than 90 days.

Leave and Benefit Issues

- A Texas State employee who is in the National Guard and is called to active duty by the Governor is entitled to paid leave for the time in which the employee is on active duty. This time is not limited and does not count against military leave or vacation accruals.
- All other military leave is subject to a maximum of 15 workdays of paid leave per federal fiscal year (October 1st – September 30th). This applies regardless of whether or not the employee is currently in a leave without pay status. After exhausting the 15 days of paid military leave, the employee may use FLSA overtime, state compensatory time, accrued vacation or be placed on leave without pay status (or a combination of these) for the remainder of the active duty period.
- The employee will continue to accrue sick or vacation leave while on leave without pay. Balances will be updated upon return from leave. The employee will receive state service credit during the military service for vacation accrual and state longevity pay purposes.
- An employee on military leave without pay may continue group insurance benefits for up to 12 months by paying the total premiums each month, including the portion normally paid by Texas State. After 12 months, coverage may be continued through COBRA. If coverage is cancelled, the employee has 30 days after returning to work to make changes or reinstate coverages.