

**Department of Finance and Administration
Office of Personnel Management**

Policy Title: **Military Leave**

Policy Number: **57**

Authority: **Ark. Code Ann. §§ 21-4-102; 21-4-105; 21-4-212; 21-4-302; 21-4-311 and 312; and 21-5-1202**

Revised: **July 1, 2017**

Military leave may only be used by active members of the US Armed Forces which include: United States Marine Corp, United States Army, United States Navy, United States Air Force, Arkansas National Guard, and all reserve branches of the armed forces.

There are 5 types of military leave available to state employees:

1. Called to regular active duty;
2. Annual training, including drill;
3. Called to duty in emergency situations;
4. Called to active duty for specialized training; and
5. Treatment for a service-connected disability

Regular Active Duty

A regular, full-time employee who is drafted or called to active duty in the Armed Forces of the United States or who volunteers for military service, shall be placed on extended military leave without pay; all unused sick leave at the time of military leave will be reinstated at the time the employee returns. All accrued, unused annual leave at the time of military leave will be reinstated at the time the employee returns to state employment unless the employee requested and received a lump-sum payment for the accrued, unused annual leave when placed on the extended military leave.

When the employee is released from active duty, and upon application within 90 days after the effective day of his or her release, he or she shall be reinstated to the position vacated or an equivalent position for which he or she is qualified in the same agency or its successor in interest. The employee shall not lose any seniority rights or any of the other benefits and privileges of employment.

Employees performing active military service for fewer than 31 days must report for reemployment on the first regularly scheduled workday within 8 hours after discharge from military service. Those serving more than 30 days but less than 181 days must report within 14 days after discharge. Those serving more than 180 days must report for reemployment within 90 days after discharge from military service.

Former employees returning to State service after military service, but who extended their enlistment or re-enlisted for additional military service beyond the initial period for more than a period of 4 years will lose all re-instatement rights and will be considered a rehire. Military service time may be extended beyond the 5 year period for reasons stated in 38 US Code Section 4312(c).

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Annual Training

Employees participating in military training programs or the US Public Health Service training program shall be entitled to a leave of absence for a period of 15 days plus necessary travel time for annual training requirements, including drill requirements, or other duties performed in an official duty status in any one calendar year. To the extent this leave is not used in a calendar year, it will accumulate for use in the succeeding calendar year until it totals 15 days at the beginning of the calendar year.

Whenever an employee of a political subdivision is granted military leave for a period of 15 days per calendar year or fiscal year, the military leave will accumulate for use in succeeding calendar years or fiscal years until it totals 15 days at the beginning of the calendar year or fiscal year, for a maximum number of military leave days available in any one calendar year or fiscal year to be 30 days.

Employees called to duty in emergency situations by the Governor or President shall be granted leave with pay not to exceed 30 working days, after which leave without pay will be granted. An employee who is drafted or called to active duty in the armed forces of the United States or who volunteers for military service shall be placed on extended leave without pay and upon application within 90 days after the effective date of his or her release from active duty shall be reinstated to the position vacated or an equivalent position at no loss of seniority or any of the other benefits and privileges of employment.

An employee who requests military leave shall furnish a copy of his or her orders for his or her personnel file.

When an employee is granted a leave of absence under this policy, he or she shall be entitled to his or her regular salary during the time he or she is away from his or her duties during such leave of absence. This leave of absence shall be in addition to the regular annual leave accrued by the employee.

During a leave of absence, the employee shall be entitled to preserve all seniority rights, efficiency or performance ratings, promotional status, retirement privileges, life and disability insurance benefits, and any other rights, privileges, and benefits to which they have become entitled.

The period of military service shall, for purposes of computations to determine whether such person may be entitled to retirement benefits, be deemed continuous service and the employee shall not be required to make contributions to any retirement fund. The state agency or political subdivision shall continue to contribute its portion of any life or

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disability insurance premiums during the leave of absence on behalf of the employee, if requested, so that continuous coverage may be maintained.

All employees of the state, any city of the first class, city of the second class, incorporated town, or any county who are members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary and desire to take a leave of absence for the purpose of participating in training programs for the Civil Air Patrol or in emergency and rescue services shall be entitled to a leave of absence with pay for a period of 15 days for that purpose during any one calendar year, if the leave of absence is at the request of the employee's wing commander, the wing commander's designated representative, or Division 15 Captain.

Emergency Situation

Regular, full-time state agency employees who are called to active duty in emergency situations (and in situations covered by 10 United States Code §12304) as declared by the Governor or President shall be granted leave with pay not to exceed 30 working days per calendar year. Periods beyond the 30 day limit may be charged to annual leave at the employee's option and if necessary, to leave without pay.

Emergency situations means any case of invasion, disaster, insurrection, riot, breach of peace, or imminent danger; threats to the public health or security; or threats to the maintenance of law and order.

The reinstated employee will not lose any seniority rights with respect to leave accrual rates, salary increases, Reduction in Force policies, or other benefits and privileges of employment. The period of military service, for purposes of computations to determine whether such persons may be entitled to retirement benefits, should be deemed continuous service and the employee shall not be required to make any contributions to any state supported retirement fund. To receive service credit for retirement purposes, a copy of the employee's DD214 must be submitted to the appropriate retirement system. The retirement system will notify the appropriate agency to remit the employer's contributions to update the employee's account.

If an employee's active duty in emergency situations begins in one calendar year and ends in the next calendar year and the employee is subsequently redeployed due to an emergency situation, the employee is eligible for 30 days paid leave in the new calendar year. To be eligible for emergency active military duty paid leave, the employee must be actively employed by the state and submit a copy of military orders for each emergency deployment.

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Military leave for emergency active duty situations is granted in addition to annual military leave for training purposes and annual leave.

Specialized Training

In cases where an employee volunteers or is ordered to active duty for the purpose of special training, the employee will be placed on leave without pay for the period of training unless the employee elects to use his accrued annual leave. This leave without pay is given in addition to the paid leave for annual military training.

The employee retains eligibility rights including accumulated annual leave (unless the above option has been exercised) and any sick leave not used at the time the employee begins the training.

The employee does not accumulate annual or sick leave during a leave without pay period, and the annual leave accrual rate will be calculated as though there had been no period of absence.

Arkansas law allows for employees of state agencies to participate in a military training program made available by the National Guard or any of the reserve branches of the armed forces. In addition, all state employees who are members of the Inactive Reserve Corps of the United States Public Health Service are allowed to take a leave of absence for the purpose of participating in the civil defense and public health training programs made available by the United States Public Health Service.

Service-Connected Disability

All state agency employees who have been rated by the United States Department of Veterans Affairs or its predecessor to have incurred a military service-connected disability and have been scheduled to be reexamined or treated for the disability shall be entitled to a leave of absence with pay.

The employee shall be entitled to his or her regular salary during the time the employee is away from his or her duties during the leave of absence. The leave with pay may not exceed 6 days for the purpose specified in this law during any one calendar year. The leave of absence shall be in addition to the regular annual leave and sick leave allowed to the employee.

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During the leave of absence allowed under this law, the employee shall be entitled to preserve:

1. All seniority rights, efficiency or performance ratings, promotional status, retirement privileges, and life and disability insurance benefits; and
2. Any other rights, privileges, and benefits to which he/she has become entitled.

For computation purposes to determine whether the employee may be entitled to retirement benefits, the period of the leave of absence shall be deemed continuous service. The state agency shall continue to contribute its portion of any life or disability insurance premiums during the leave of absences on behalf of the employee, if requested, so that continuous coverage may be maintained.

Military Leave – Vacancy and Compensation

Any person appointed to fill the office or perform the duties of an employee on a military leave of absence who dies, resigns, or in any manner or for any cause vacates the office or position to which he or she was appointed, the Governor, or person whose duty it would be to fill the office or position if a vacancy should occur, shall select and appoint a capable and competent person to perform the duties of the office or position until the term of office or employment expires or until the official or employee appears for the purpose of resuming the office or position.

The appointment shall expire upon the expiration of the term of the office or employment of the employee for the purpose of the resumption of his or her duties.

The deputies or other persons appointed to fill the office or position of the official or employee during a leave of absence under the provisions of this subchapter shall receive the same compensation and shall be paid in the same manner as the official or employee whose duties he or she assumes.

During the time any official or employee is absent from his or her office or position on a leave of absence granted under the provisions of this subchapter, he or she shall not be entitled to compensation.