

**STATE OF OHIO**  
**ADJUTANT GENERAL'S DEPARTMENT**  
2825 West Dublin Granville Road  
Columbus, Ohio 43235-2789

**MEMORANDUM**

**TO:** SEE DISTRIBUTION

**FROM:** Gregory L. Wayt, Major General (Ohio), The Adjutant General

**DATE:** May 13, 2003

**SUBJECT:** POLICY – State Employee Procedure Letter #16  
Military Leave

**1. REFERENCES:**

- a. Administrative Rules of the Department of Administrative Services 123:1-34-04 and 123:1-34-05.
- b. Title 10, U.S. Code.
- c. Title 32, U.S. Code.
- d. Title 38, U.S. Code, 4301-4333 – Uniformed Services Employment and Reemployment Rights Act (USERRA)
- e. Sections 5903.02 and 5923.05, Ohio Revised Code.
- f. Article 30.02, AFSCME/OCSEA Contract for State Employees.

**2. SCOPE:** This policy applies to all permanent part-time and full-time state employees serving in the classified and unclassified service established by Section 124.14(A), Ohio Revised Code.

**3. GENERAL:** Employees granted military leave have specific rights of employment and reemployment under USERRA if specific eligibility criteria are met. Specific procedures for military leave and reinstatement to state civilian employment within the Adjutant General's Department and the Ohio National Guard component services are detailed below.

**4. MILITARY LEAVE WITH PAY:** Employees who are members of one or more of the following are entitled to leaves of absence from their respective duties without loss of pay for such time as they are performing military duty. The maximum entitlement for military leave with pay per calendar year is twenty-two (22) eight-hour work days or one hundred seventy-six (176) hours. Calendar year means the year beginning on the first day of January and ending on the last day of December.

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|-------------------------|--|
| ➤ Federal Active Duty   | ➤ Ohio Naval Militia   |
| ➤ Ohio National Guard   | ➤ Members of other reserve components of the Armed Forces of the United States |
| ➤ Ohio Military Reserve |  |
- a. An employee may use vacation, personal, holiday (if applicable) or compensatory leave time in order to be compensated for authorized military leave used in excess of the maximum entitlement of 176 hours per calendar year by completing the Adjutant General Department's Military Leave Request Form (Enclosure 1). Requested hours may not exceed current leave balances.

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- b. Any employee requesting military leave must submit the request on the Military Leave Request Form to his or her supervisor 15 days prior to the effective date of the leave except for emergency State Active Duty.
  - c. A copy of the military order, or a letter specifying the start and end dates and times of military duty, must accompany the request. If a letter is submitted, it must be on appropriate letterhead and signed by proper military command authority. If a letter is submitted with the initial request for leave, a copy of the military order must be provided within a reasonable time. A published order identifying Unit Training Assembly periods will be sufficient to validate scheduled, recurring training periods requiring military leave on specific days. These short-term requests will establish start and end dates for authorized military leave and will require no further documentation unless the military duty requirements are changed.
  - d. The Military Leave Request form with the attached orders must accompany and be attached to the formal Time and Attendance Report Form (T&A) (AGN Form 0023 and AGN Form 0042) when submitted to the State Human Resources Division (SHRD) Office.
  - e. State T&As which reflect military leave pay entries but do not have the required supporting documents attached as explained in 4c and 4d above will not be posted to payroll until all proper documentation is received in SHRD.
- 5. MILITARY LEAVE WITHOUT PAY** - An employee may request military leave without pay not to exceed two full pay periods. If a military leave without pay status is going to exceed two full pay periods, a leave of absence must be requested.
- 6. MILITARY LEAVE OF ABSENCE:** When paid military leave has been exhausted and other forms of requested leave have been used, the employee will be placed in "Military Leave of Absence without Pay." The employee will remain in a leave of absence without pay until
- a. The employee returns from uniformed service to an active work status, or
  - b. A new calendar year provides a new paid military leave entitlement. Employees performing uniformed military service in a "Military Leave of Absence without Pay" status as of December 31 will automatically be placed on paid military leave in January of the new calendar year until paid leave is exhausted.
- 7. CONTINUATION OF HEALTH CARE AND/OR LIFE INSURANCE BENEFITS WHILE PERFORMING MILITARY DUTY:** A state employee eligible for "Military Leave of Absence" may continue health care and/or life insurance benefits by marking this election on the Military Leave Request form and identifying the method of payment.
- a. If performing federal military duty (Title 10 or Title 32), the employee will continue to be responsible for the employee share of health insurance and the State of Ohio will continue to pay the employer share of health insurance costs.
  - b. If performing state active duty, the employee will be responsible for the entire cost of health insurance (employee and employer shares of costs).
  - c. Employees choosing to exercise this option may
    - 1. Make a direct payment for the monthly amount due to the Human Resource Office or
    - 2. Request an advancement of money (up to \$1500) to cover the employee's share of health costs. These costs will be recouped from state pay when the employee begins to receive pay from the agency.

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- 8. DENTAL AND VISION BENEFITS:** If an employee has dental and/or vision coverage prior to a military leave of absence, the coverage will stay intact during the leave with no loss of coverage.
- 9. MILITARY LEAVE PAY DIFFERENTIAL (Federal Active Duty only):** A state employee performing federal military duty who is on leave without pay for thirty-one days or longer is entitled to receive a pay differential from the State of Ohio. The employee will be eligible for this pay differential when the gross military compensation received is less than the gross compensation that would have been received if the employee remained on the state payroll.
- a. To qualify for this differential pay, the employee must provide
    1. Special Pay Supplement Application (Enclosure 2)
    2. A copy of the military orders
    3. A copy of the "Military Leave & Earning Statement" for each month the employee remains on military leave.
  - b. The differential will be computed by the Payroll Officer subtracting the gross military pay and allowances received from the monthly gross state pay that would have been received.
- 10. REINSTATEMENT:** An employee returning from military leave must apply for reinstatement by written letter to the appointing authority within the specified time of his/her release from active duty. Upon proper application, the employee shall be returned to the same or similar position within the employee's former classification. If the employee's former classification no longer exists, the employee shall, with approval of the director of administrative services, be assigned to a position in a classification similar to that formerly occupied. As provided by USERRA, the following guidelines apply:
- a. Short periods of military leave (i.e., single day requirements and/or periods of less than 30 days of military active duty)
    1. The employee must apply for reinstatement immediately upon release from active duty.
    2. Return to duty from these short periods of military leave requires no request for reinstatement from the employee if there is no change from the initial request for military leave. The term of duty identified in the validated military order or command letter will establish the last day of military duty and termination of authorized military leave of absence.
    3. If an employee requires additional time off, the employee must notify his/her immediate supervisor prior to the expected return to duty date.
    4. An employee will not be required to report back to duty without adequate travel time and at least 8 hours rest between his/her release time from active duty and report time back to work
  - b. Active duty between 31 and 180 days
    1. The employee must apply within 14 days of release from active duty.
    2. Return to state civilian employment from an authorized military leave of absence in excess of 30 days will require the employee to submit a written request for reinstatement using the "Reinstatement Request (Military Leave)" (Enclosure 3).

3. The request should be forwarded through the employee's immediate supervisor to the Adjutant General's Department, State Human Resource Division. If the immediate supervisor is not known, the request may be forwarded directly to the State Human Resource Division.
4. The request must be accompanied by a copy of the military discharge (DD Form 214) or evidence of completion or release from active service under honorable conditions.
- c. Period of active duty more than 180 days
  1. The employee must apply within 90 days of release from active duty.
  2. Completion of military duty on the published date of valid military orders will be considered sufficient evidence of honorable completion of active service if an individual is continued as a member of the military reserve component (i.e., retains reserve ID card).
  3. Military service documentation (DA Form 31-Army or AF Form 988 – Air) identifying the employee to be on authorized leave from military duty through the completion date of the validated active duty order will be considered evidence of honorable release from military duty.
- d. Requests for reinstatement should identify the date of effective release from military duty and the requested date of reemployment as a civilian state employee if the reinstatement date is other than the next scheduled work day after release from military duty.
- e. A state employee on an authorized military leave of absence may not return to state civilian duty during the period of authorized military duty without submitting a request for reinstatement and satisfactory evidence of completion of military duty or release from military duty.

**11. Benefits upon reinstatement:**

1. Exempt Employees

- A. The amount of sick leave that had been accrued at the time of entering a military leave without pay status. Sick leave will not accrue during the time spent on military leave without pay.
- B. The amount of vacation, personal, holiday (if applicable) and compensatory time leave balances that had been accrued at the time of entering a military leave without pay status unless the employee requested to use leave prior to going into a military leave without pay status. The types of leaves listed above will not accrue during the time spent on a military leave without pay.
- C. The amount of service time which would have accrued had the employee been on the job.
- D. Automatic salary adjustments associated with the position and due the employee had the employee been on the job.
- E. Any change in classification or pay range which would be due the employee had the employee been on the job.

2. Bargaining Unit Employees

- A. The amount of sick leave that had been accrued at the time of entering a military leave without pay status. Sick leave will accrue during the time spent on military leave without pay.

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- B. The amount of vacation, personal and compensatory time leave balances that had been accrued at the time of entering a military leave without pay status unless the employee requested to use leave prior to going into a military leave without pay status. The types of leaves listed above will not accrue during the time spent on a military leave without pay.
- C. The amount of service time which would have accrued had the employee been on the job.
- D. Automatic salary adjustments associated with the position and due the employee had the employee been on the job.
- E. Any change in classification or pay range which would be due the employee had the employee been on the job.

**Enclosures: (4)**

- 1 – Adjutant General’s Department Military Leave Request**
- 2 – Military Active Duty Special Pay Supplement Application**
- 3 – Adjutant General’s Department Reinstatement Request (Military Leave)**
- 4 – Employee Responsibilities**

**DISTRIBUTION:**

**AD**