

# MCO MILITARY MEMBER ADVOCATE

## REFERENCE GUIDE

### A. Eligibility for Military Leave of Absence

1. If you are a career classified employee and go on duty in one of the uniformed services, you are eligible for an unpaid Military Leave of Absence if you meet all the following criteria:
  - a) You are absent from your state job due to service in one of the uniformed services;
  - b) You (or your uniformed service) have given your state department advanced oral or written notice of your absence; AND
  - c) Your cumulative, non-exempted absences for military service from your classified job do not exceed 5 years.
2. Service in the uniformed services includes active duty, training duty, fulltime National Guard duty, fitness-for-duty examinations, and funeral-honors duty. Service in the uniformed service also includes service performed as an intermittent disaster response appointee upon activation of the National Disaster Medical System or participation in a related training program as authorized in 42 USC 300hh-1 1(e)(3)(A).
3. ***MCO Contract Language (Article 19 Section G):*** When called for active or inactive military service, an employee will be granted a military leave of absence and keep all seniority benefits as provided under Civil Service Rules and Regulations and USERRA. When called for active or inactive duty training, employee can be released on annual leave or compensatory time even if annual leave slots are filled. If the employee does not have accruals, approved lost time will be granted. Once employee is aware of training, he or she must give supervisor written notification. No complaints under USERRA or other applicable statutes are grievable.

### B. Basic Federal Rights and Benefits

1. You have a right to an unpaid military leave of absence from your state job. You must give your state employer advanced notice of your military duty. Your employer cannot deny you a military leave of absence. Your leave of absence is unpaid, but you can use any accrued state annual, personal, compensatory, or banked leave time for this period.
2. You have a right to continue state group medical, vision, and dental coverage for yourself and your family. For the first 31 days, your coverage continues under the same terms as when you were employed. After that, you can continue coverage for up to 2 years by paying 102% of the full premium cost.
3. You have a right to return to work in the classified service at the end of your military service with the seniority benefits that you would have had if continuously employed. You have a right to return to work if (1) your total, non-exempted military service does not exceed 5 years, (2) you do not receive a disqualifying discharge from the military, and (3) you timely return to work after completing your service. You must provide, upon request, documents establishing your right to reemployment.
4. Use of NPML for employee's time coding and the 10ML/11ML coding for gross pay adjustments was initiated to improve positive payroll and accounting procedures. NPML hours do not officially become part of the employee's state service record until they submit their proof of military service and return to state employment.

5. *Service Members Civil Relief Act (SCRA)*: This law provides active duty service members and their immediate dependents certain legal rights and protections including stay of legal proceedings, limits on interest rates and certain protections in cases of home foreclosure and eviction.

### C. Supplemental Pay and Benefits

1. You are eligible for supplemental pay and benefits if you are a career classified employee absent from your state job for the following types of duty with the National Guard or a reserve unit:
  - a. *Active or inactive duty training (does not include initial training in a uniformed service)*: Supplemental pay for training duty is processed after the dates on the Military Leave and Earnings Statement (LES) and after the State pay period in which those dates fall.
  - b. *Emergency active duty (active duty in support of emergency operations during an emergency declared by the president or governor)*: Supplemental pay for emergency active duty is processed after the period end date on the LES and per the yearly Processing Supplemental Pay Schedule.
2. If eligible, the state will pay a supplement equal to the difference between your base state wage and your basic military pay. You are not entitled to supplemental pay (a) if your military service is unpaid, (b) if your military pay exceeds your state pay, or (c) for any time on leave before or after your military duty (decompression).
3. To receive supplemental pay, you must submit your LES to your Human Resources Office, who will forward it to MCSC Office of Compliance & Compensation for processing.
4. If a state holiday falls during a military leave for which you are eligible to receive supplemental pay, you will receive your full base wage for that holiday (not just the pay differential). Any period of leave before or after military (decompression) will not qualify for holiday pay. You will also receive your full annual longevity payment if any part of the year has been in military service.
5. You may also use accrued annual, personal, compensatory, or banked leave time to receive your full gross state base wage instead of supplemental pay.
6. When supplemental pay is processed, it appears in the employee's pay warrant as a gross pay adjustment codes as either (a) 11ML for active duty in or in support of soldiers in a combat zone or active duty training or (b) 10ML for active duty military service not qualifying under the combat zone eligibility (Border Patrol, State National Guard Emergency Call Up, etc.) or inactive duty training.
7. *Limits on Supplemental Pay and Benefits*: For training duty, eligible employees can receive supplemental pay for up to 15 scheduled workdays (120 hours) of training duty in each fiscal year. For emergency active duty, eligible employees receive supplemental pay for the duration of the emergency active duty.
8. Shift differentials, holiday overtime, and any other special allowances outside the definition of a standard state work day are not to be considered when performing calculations for supplemental pay. The comparison of state to military work day is one 8-hour day to the military day of one 24-hour period.
9. *Accruals*: Credit for only the first 15 days of eligible training duty. Credit for only the first 30 consecutive calendar days of eligible emergency active duty. Multiple short term active duty assignments in a fiscal year will be considered as one consecutive assignment.

10. *Group Insurance Benefits:* For the first 30 days of any military service, all employees may continue state group health, dental, and vision plan coverage by continuing to pay the regular employee's portion of the cost. After 30 days, employees not eligible for supplemental pay can continue coverage for up to 2 years by paying 102% of the cost; employees eligible for supplemental pay may continue coverage by paying only the employee's portion of the cost.

#### **D. Decompression Time and Return to Work**

1. *Before Military Service Starts:* If eligible for a military leave of absence, you may leave your state job so that you have enough time to travel safely to your military duty and arrive fit for duty. Before an extended military tour, you may take a reasonable amount of time off to put your affairs in order before beginning your active duty. This pre-duty time off is unpaid (even if you are eligible for supplemental pay and benefits), but you will get seniority credit for this time when you return to work after your military service. You may use annual, personal, or other paid leave credits to cover some or all this absence.
2. *After Military Service Ends:* After your military service ends, you may take some additional time off to "decompress" from your service before returning to your state job. All decompression time is unpaid military leave of absence (even if you were eligible for supplemental pay and benefits). You may use annual, personal, or other paid leave credits to cover some or all this absence. The amount of decompression time you can take depends on the length of your service. You must report for work to your classified job (or give your appointing authority notice of your readiness to timely return to work) within the following limits:
  - a. *Less than 31 days of service:* If your military service was less than 31 days, you must report to work for the first full regularly scheduled work period on the first full calendar day after completing your military service, plus a period allowing safe transportation from the place of your service to your residence, plus 8 hours.
  - b. *31 to 180 days of service:* If your military service was more than 30 days but less than 181 days, you must report for work within 14 days after the end of your service.
  - c. *181 or more days of service:* If your military service was more than 180 days, you must report for work within 6 months after the end of your service.
3. If you cannot return to your state job within the applicable time limit due to a service-connected injury or illness, your deadline may be extended up to 2 additional years.
4. If you do not report for work (or give notice) within the applicable time limit, you may lose your right to return to work and all seniority and retirement benefits that would accrue upon your return to work.

#### **E. State Retirement Benefits**

1. The state will give you retirement credit for qualifying military service time if you return timely to work in your classified job after you submit the appropriate documentation.
2. *Defined Benefit Retirement Plan:* If you are in the defined benefit plan, when you return to work in the classified service, your defined benefit retirement account will be updated to include credit for all eligible military leave time. Your appointing authority pays the cost.
3. *Defined Contribution Retirement Plan:* If you are in the defined contribution plan, your retirement account will be updated to include all eligible military leave time. The State will contribute an amount equal to 4% of the hypothetical state pay you would have received but

for your military service. You may (but are not required to) make up missed elective contributions to your 401(k) or 457 plan. If you make up any missed elective contributions, the State will match those contributions up to 3% of pay.

4. *Elective Contributions under Either Plan:* If you want to make up missed elective contributions to your 401(k) or 457 account, you must do so within a period equal to 3 times the length of your immediate past military service, but not longer than 5 years. For example, if you returned to work on May 1, 2007, after 1 year of military duty, you must make up any elective contributions within 3 years (by May 1, 2010).

## **F. Documenting Military Service**

1. You must provide the state with official documentation of your military service for the state to properly credit your military time. The official documents to verify absence from regularly scheduled workdays for service in the uniformed services are a Military Leave and Earnings Statement (LES) and any DD-214, Separation or Discharge from Active Duty.
2. **Military LES:** To serve as an acceptable documentation of military service, an LES must clearly show all the following:
  - a. From the Top Line: Employee Name, Grade, and YRS SERV
  - b. Entitlements Type: Basic Pay & Dollar Amount
  - c. Remarks: The lines that state what type of duty was performed and all dates that the Basic Pay amount covers.
3. *Before You Go:* To qualify for a military leave of absence, you must give your department advanced notice of your absence. We suggest that you give a copy of your written duty orders or drill schedules to your supervisor and your department's Human Resources Office as soon as they are available.
4. *Military Orders:* Unless precluded by military necessity, an employee must provide the employer prior oral or written notice before taking a leave of absence for military duty. Employees should provide as much notice as possible. Failure to provide notice could result in a denial of protections under USERRA. When an employee submits military orders, it provides notice to the employer of possible absence from work and inform the financial offices whether the military service is training duty, emergency active duty in or in support of soldiers in a combat zone, or another type of active duty military service not qualifying under the combat zone eligibility for social security/Medicare tax exemption. This is important when an employee is eligible for supplemental pay.
5. *While You Are Away:* If you are on an extended military leave of absence with a National Guard or reserve unit and are eligible for supplemental pay, you can receive payment of your supplemental pay by arranging for the submission of your military Leave and Earnings statements. If you fail to provide these during your absence, reconciliation for any supplemental pay due will occur upon your return to work.
6. *When You Get Back:* When you return to your state job (after the end of your military service), you must provide documents establishing your right to reemployment to your Human Resources Office, such as copies of previously un-submitted Military LES and any DD-214. You should also apply for retirement credit with the Office of Retirement Services after returning from an extended leave.

7. *Delayed Return*: If your return to your state job is delayed due to a duty-related injury or illness, you must submit information from the Veterans' Administration or military to document your injury or illness and convalescence.
8. **Civil Service Regulation 5.05**: The employee must submit required documentation to the appointing authority within 90 days of hire to receive the additional service credit retroactive to the date of hire. If documentation is not submitted within 90 days, the service credit is not retroactive to date of hire but is credited as of the first day of the pay period in which the documents are received by the appointing authority. Only active service for which the veteran has received an honorable discharge or other certified evidence of honorable active service is creditable. Any of the following documents provide such evidence:
  - a. DD-214, Certificate of Release or Discharge from Active Duty, which must include Field #24: Character of Service; OR
  - b. NGB Form 22, Report of Separation and Record of Service in the Air/Army National Guard, which must include Field #24: Character of Service.

The following conversion table is used to adjust active military service time to continuous state service hours:

1 year = 2,080 hours  
 1 month = 174 hours  
 1 day = 5.8 hours

## G. Complaints by Employees

1. *Complaint to U.S. Department of Labor*: If you believe that you have been or are about to be denied any basic employment or reemployment right or benefit available to you under USERRA you should follow this procedure:
  - a. Talk to your supervisor or Human Resources Office first. There may be a misunderstanding that can be corrected quickly and easily.
  - b. If you cannot resolve the problem at Step 1, you may file a USERRA complaint with the Veterans' Employment and Training Services (VETS) of the U. S. Department of Labor.
2. *Civil Service Complaint*: If you believe that you have been denied any basic employment or reemployment right or benefit under Civil Service Regulation 2.04, or any supplemental right or benefit under Civil Service Rule 2-14, you should follow whichever procedure is appropriate (Grievance or Technical Complaint.)
3. *Grievance*: If you are complaining about a decision by your department, you may file a grievance with your department. A grievance must be filed within 14 calendar days after you knew of, or should have known of, the circumstances giving rise to your grievance. If you do not agree with your department's final grievance decision, you may appeal to the Civil Service Commission, Hearings Division. You may contact MCO regarding your possible grievance issue. But, if you are complaining about a decision that only the Civil Service Commission has the authority to make, you must file a technical complaint.
4. *Technical Complaint*: If you are complaining about a decision by the staff of the Civil Service Commission, you may file a technical complaint with the Civil Service Commission. A technical complaint must be filed within 14 calendar days after the date of the staff decision.

## H. MCO specific contract sections

1. *Annual Leave Allowance (Article 28, Section B):* For the purposes of additional annual leave, honorable service in the armed forces of the U.S. of up to 5 years will be applied as long as a military absence would have been granted had the employee been a state classified employee. However, if an employee leaves state services and later returns, previous military service credited will not count if the employee previously qualified for and received these benefits.
2. *Seniority (Article 13, Section C):* Up to 10,400 hours of military leave of absence will be credited for seniority purposes for any and all bargaining unit classes in accordance to federal statutes including USERRA. The union can request a military leave of absence be credited with bargaining unit seniority for non-paid time spent receiving medical care resulting from service in the military even if not recalled to military duty.
3. *Time Limits (Article 20, Section E):* For purposes of computing time for expunging records, military leave shall be counted.
4. *FMLA (LOU#3):* A qualifying purpose for leave under FMLA will be certain military family leaves related to a qualifying exigency resulting from a call to active military duty as well as care needs resulting from serious injury or illness incurred during active duty.

## I. VA Benefits

1. **IMPORTANT NOTE:** *There are no guidelines in the Civil Service Rules and Regulation nor in the MCO contract directly addressing VA benefits. All information in this Reference Guide is strictly for information purposes only. Any issue regarding a VA benefit should be directed at your local VA office or a VA representative.*
2. For VA Benefits appointments, members use annual leave or sick leave. If no accruals are available, lost time will apply.
3. Veterans of the United States armed forces may be eligible for a broad range of benefits and armed services provided by the U.S. Department of Veterans Affairs. Some of these benefits may be utilized while on active duty. These benefits are codified in Title 38 of the United States Code.
4. General Eligibility for most VA benefits is based upon discharge from active military service under other than dishonorable conditions. Active service means full-time service, other than active duty for training, as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or various other government positions.
5. Dishonorable and bad conduct discharges issued by general courts martial may bar VA benefits.
6. To expedite benefits delivery, veterans seeking a VA benefit for the first time must submit a copy of their service discharge form (DD-214, DD-215, or WD form), which documents

service dates and type of discharge, or provides full name, military service number, and branch and dates of service.

7. *eBenefits* is a joint VA/DoD Web portal that provides resources and self-service capabilities to SM, veterans and their families to apply, research, access and manage their VA and military benefits and personal information through a secure internet connection.
8. Through *eBenefits*, Veterans can do the following: apply the benefits, view their disability compensation claim status, access official military personnel documents (e.g. DD214, certificates of release or Discharge from active duty) transfer entitlement of Post 9/11 GI Bill to eligible dependents (Service members only), obtain a VA-guaranteed home loan certificate of Eligibility, and register for and update direct deposit information for certain benefits. New features are added regularly.
9. Service members and Veterans must register for an *eBenefits* online [www.ebenefits.va.gov](http://www.ebenefits.va.gov) at one of two levels: Basic or Premium. A Premium account allows the user to access personal data in VA and DoD systems, as well as apply for benefits online, check the status of claims, update address records and more. The Basic account allows access to information entered into *eBenefits* by the Service member or Veteran only.
10. To register for an *eBenefits* account, Veterans must be listed in the Defense Enrollment Eligibility Reporting System (DEERS) and first obtain a DoD Self Service (DS) Logon. Service members can access *eBenefits* with a DS Logon or Common Access Card (CAC). They can choose from two levels of registration: DS Logon Level 1 Basic and DS Logon Level 2 Premium. Note if veterans attempt to register and they are informed they have no DEERS record, VA will first need to verify their military service and add them to DEERS.
11. Identity verification: Retirees may verify their identity online using their Defense Finance Accounting Service (DFAS) Logon. Veterans in receipt of BA benefits via direct deposit may have their identity verified by calling 800-827-1000 and selecting option 7. Others may need to visit a VA regional office or TRICARE Service Center to have their identities verified in person.

#### **J. VA Health Care Benefits**

1. A person who has served in the active military who was discharged or released under conditions other than dishonorable may qualify for VA health care benefits. Reservists/Guard members may also qualify for VA health care benefits if they were called to active duty other than training only by a Federal order and completed the full period for which they were called or ordered to active duty.
2. For most veterans, entry into VA health care system begins by applying for enrollment. Veterans can now apply and submit their application for enrollment online at [www.1010ez.med.va.gov/sec/vha/1010ez](http://www.1010ez.med.va.gov/sec/vha/1010ez) . If assistance is needed contact 877-222-8387. Once enrolled, veterans can receive health care at VA health care facilities anywhere in the country.

3. During enrollment, each veteran is assigned to a priority group. VA uses priority groups to balance demand for VA health care enrollment with resources. Changes in available resources may reduce the number of priority groups VA can enroll. If this occurs, VA will publicize the changes and notify affected enrollees.
  
4. Veterans can participate in a VA health registry and receive FREE evaluations. These evaluations include a medical history, physical exam, and if necessary by the clinician, laboratory tests or other studies. VA maintains health registries to provide special health evaluations and health-related information. To participate contact the Environmental Health Coordinator at the nearest VA health care facility or visit [www.publichealth.va.gov/exposures](http://www.publichealth.va.gov/exposures) to see a directory which lists Environmental Health Coordinators by state and US territory. Veterans should be aware that a health registry evaluation is not a disability compensation exam. A registry evaluation does not start a claim for compensation and is not required for any VA benefits. Be advised all these registries should be noted on your medical paperwork before you separate from the military.