



Military service

OVERVIEW

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), a participant's benefit rights are protected when absent due to active duty in the U.S. armed forces. This includes:

- All branches of U.S. armed forces (Army, Navy, Air Force, Marine Corps, Coast Guard, Reserves, Army and Air National Guards)
- The commissioned corps of the Public Health Service
- Reservists on active duty during peacetime or war, including inactive training duty

Under USERRA, seniority, compensation, and benefits must be reinstated at the level where they would have been had the participant not left employment for military service.

In addition, if allowed in the plan, the Pension Protection Act (PPA) allows for penalty free withdrawals and early distributions from the Plan for certain military reservists who were called to active duty after September 11, 2001, for a period more than 179 days or for an indefinite period. While on military leave, employees are inactive participants. Upon rehire, employees are active participants once again.

The following summarizes key plan provisions impacted by participants on active military duty.

Plan provision	Description
Eligibility & Vesting	<ul style="list-style-type: none"> • Participants must receive credit for years of service while in uniformed services. • Participants are not treated as having had a break in service; therefore, there is no waiting period to resume participating in the plan.
Employee Contributions	<ul style="list-style-type: none"> • Upon return from military service, participants may immediately begin contributing. • In addition, participants are permitted to make up contributions up to the maximum amount that they could have made during the period of military service had they continued to be employed by the employer. • Participants have a period of up to three times the period of military service, not to exceed five years, to make up any applicable employee contributions. • NOTE: Make-up contributions are not counted in the plan's year end discrimination tests. Make-Up contributions are treated as made for the year to which they are intended for, not the year in which they were made.

Plan provision	Description
Employer Contributions	<ul style="list-style-type: none"> • Upon return from military service, employers must make any applicable employer contributions to participants' accounts for the period while employees are on military leave, but do not need to compensate for any missed investment earnings. • If the participant chooses to make up contributions, the employer must also make up any associated employer match contributions. • Employers have a period of up to three times the period of military service, not to exceed five years, to make up any applicable employer contributions. • NOTE: Make-up employer contributions are not counted in the plan's year end discrimination tests (415 testing). Make-up employer contributions are treated as made for the year to which they relate, not the year in which they were made.
Compensation	<ul style="list-style-type: none"> • Compensation to be used for purposes of determining any missed employer contributions is the pay participants would have received for the applicable time if the employee were not on military leave. • If compensation is undeterminable for the time participants were on military leave, then compensation is based on the last twelve months of employment (or actual employment if less than one year).
Forfeitures	Employers are not required to allocate any forfeitures to the participant's account that occurred while an employee was on military leave.
Loan Repayments	<ul style="list-style-type: none"> • Loan repayments may be suspended during a leave of absence for military service. The loan may not default during this time, even if the leave of absence exceeds a year. • Upon completion of military service, participants must resume loan repayments. • The outstanding loan amount must be repaid in full (including interest accrued during the period of military service) by the latest loan maturity date permitted under IRC 72 (p)(2)(b) plus the period of the military service. • After the leave of absence has ended, participants may either: <ul style="list-style-type: none"> - Refinance/reamortize the loan. - Reactivate the loan, make up total amount of suspended loan repayments, then continue making regular payments due moving forward. - Payoff the outstanding loan balance (with accrued interest).
Loans	<ul style="list-style-type: none"> • Participants may request loans during their military service at the current interest rate. • The maximum interest rate that may be imposed during military leave is 6%.

NOTE: Any state law, health plan or contract that is more generous to returning employees also applies. Seek advice from legal counsel on the rules under applicable laws and contracts. Additional details concerning USERRA are available on the DOL website at <https://www.dol.gov/agencies/vets/programs/userra>.

Action step summary

- 1. Identify impacted employee population:** Employees are required to give employers advance notification of military service status either verbally or in writing (unless military necessity prevents it). However, it is recommended that employers are aware of active employees who are military reservists.
- 2. Understand employer obligations:** Employers are encouraged to become familiar with USERRA provisions and PPA obligations for reservists called to active duty.
- 3. Educate Participants:** Employers are encouraged to educate employees about their rights and options. Including, reviewing, and updating beneficiary designations and asset allocation before leaving for military service. Participants on military leave continue to have access to both their online account and assistance from Participant Services Representatives.
- 4. Provide a smooth transition back to work:** USERRA provisions provide for a specific timeframe in which re-employment must occur. Participants who receive an honorable discharge and whose leave does not exceed five years must be rehired in their former job (or an equivalent position if the military service exceeded 90 days) unless the employer's circumstances have changed.

Employees returning from military service must apply for re-employment within:

Length of military service	Re-employment deadline
Less than 31 days	1 day after discharge (plus 8 hours for travel)
31 – 180 days	14 days after discharge
More than 180 days	90 days after discharge
Recovery due to illness or injury	Extension up to 2 years

The non-discretionary recordkeeping and administrative services described in this Service Overview are general in nature and reflect the standard service offering. Service descriptions are not specific to any plan provision or administration practice. The recordkeeper may agree to provide an alternate service arrangement, as applicable, if separately requested by the Plan Sponsor.