OREGON PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

12

Military
Leave

Guidelines for reporting time away from work for military duty and fulfilling USERRA requirements.

Employer Service Center

Contents

May 2024

Guide summary

Members of the uniformed services have the right to take a leave from their job to perform military service, with or without pay, and return to their job (or an equivalent job if their previous job no longer exists).

When they return, if their leave meets the guidelines of the Uniformed Services Employment and Reemployment Rights Act (USERRA), they are entitled to earn the benefits they would have earned had they not left for military service, including raises, promotions, and retirement benefits.

This guide explains how the employee's military leave can qualify for benefits and what information PERS needs to calculate those benefits.

Note: An employee must be in a PERS-qualifying position to earn retirement benefits; therefore, this guide only applies to qualifying employees. See sidebar.

> To qualify to earn PERS benefits, an employee must work in a position that requires at least 600 hours/calendar year. That type of position is called *qualifying*.
>
> A position that requires fewer than 600 hours a year is called *non-qualifying*. However, an employee who works more than one non-qualifying job can qualify based on their combined hours.
>
> If you have a non-qualifying employee who works more than one job, check their qualification status when they leave for military duty. Run an Eligibility Report, as explained in employer reporting guide 24, *Running Reports*.

Placing employee on leave

Normally, you don't report an employee as on a leave status unless they will be away from work for at least 11 working days and will not be receiving any pay from the employer (e.g., sick leave, vacation). However, for a USERRA leave, there is no minimum requirement for reporting the leave.

Reporting pay received during leave

The only pay you need to report to PERS is salary paid by the PERS-participating employer, such as sick leave, vacation leave, holiday pay, or differential wages. You cannot report pay while your employee is on 05 – Military Duty, however, so the way you report pay depends on the type of pay, as explained in this guide.

Earning PERS benefits for military leave

To ensure the employee earns benefits for their USERRA-qualifying leave, PERS must receive the following upon the employee's return to work:

- **A USERRA form** with information about the leave, salary the employee would have been paid during their leave, and employee's IAP contribution type (i.e., employer-paid pre-tax (EPPT), member-paid pre-tax (MPPT), or member-paid after-tax (MPAT)). Once PERS receives the form, we create a USERRA job segment in the employee's record. USERRA form.

- **Wage records** for each pay period of the employee's leave. These are wages they would have earned had they remained at work, reported with wage code 11 – USERRA Qualifying Wages. You are then invoiced for pension contributions on those amounts.

- **IAP contributions** owed for each pay period of the employee's leave. PERS must receive IAP contributions for Tier One/Tier Two employees in order to grant them service credit for their leave. OPSRP employees are granted service credit regardless of whether their IAP contributions are paid.

About the Uniformed Services Employment and Reemployment Rights Act (USERRA)

USERRA is a federal law that grants employees certain rights to reemployment and benefits after completing a period of duty in the United States uniformed services.

Reemployment rights and benefits upon completion of a period of duty in the United States uniformed services are not automatic. The member must meet certain criteria, outlined below. Determining the member's eligibility for USERRA reemployment rights is the employer's responsibility. Learn more in the USERRA Pocket Guide.

Qualifying for USERRA

To qualify for USERRA, the military leave must meet these four criteria:

1 Employee gives their employer advance notice (unless this isn't possible).

2 The leave does not last more than five years (see exceptions under step 2 on the Reemployment Under USERRA webpage).

3 Employee reports back to work with the same employer. They must return within the required number of days after their last day of military service (see step 3: Reporting back to work on the USERRA webpage).

The deadline can be extended up to two years if the employee is recovering from an illness or injury incurred while on duty. If employee will not be returning to work because of injury or death, see the section "If Employee Is Not Returning to Work" in this guide.

Note: All state agencies are considered to be one employer. So, an employee could return to work for a different state agency and still qualify for USERRA.

4 Employee was not separated from service because of "other than honorable" conditions.

Reporting the military leave

Report beginning of leave

When the employee leaves for military service, submit a Detail 1 record with a status code of 05 - On Military Leave.

SSN and name: Auto filled.

Status Code: 05 – On Military Leave.

Status Date: The date on which the employee began their leave.

Remaining fields: Leave blank.

ADD/EDIT A MEMBER RECORD

The status of this member record is: **Added**

DETAIL 1 - MEMBER DEMOGRAPHICS:

SSN	********
Status Code	05 - On Military Leave
Status Date	02/01/2023
	(MM/DD/YYYY)
Last Day Service	
	(MM/DD/YYYY)
Old SSN	
First Name	Michael
Last Name	Soldier
Middle Name	
Name Change Indicator	N

While employee is on leave

If employee is on military leave for 90 days or more with no wages reported, they will appear on your Inactive Employment Report. This EDX report lists all employees for whom you have not reported pay in at least 90 days. (Learn more about this report in employer reporting guide 24, *Running Reports*.)

If this happens, you don't need to do anything. Do not terminate them unless they inform you that they are terminating their employment with you. In that case, read the instructions in the section "If Employee Is Not Returning to Work" in this guide.

To report salary paid during leave, read the next section, "Reporting Wages While on Military Leave."

Report end of leave

SSN and name: Auto filled.

Status Code: 08 – Return from Leave.

Status Date: Employee's first day back at work or on paid time off.

Remaining fields: Leave blank.

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ADD/EDIT A MEMBER RECORD

The status of this member record is: **Added**

DETAIL 1 - MEMBER DEMOGRAPHICS:

SSN	*********
Status Code	08 - Return from Leave
Status Date	08/01/2023 (MM/DD/YYYY)
Last Day Service	(MM/DD/YYYY)
Old SSN	
First Name	Michael
Last Name	Soldier
Middle Name	
Name Change Indicator	N

Reporting wages while on military leave

How to report pay during USERRA-qualifying military leave

EDX does not allow you to report regular wages while an employee is on a leave status. The way you will report pay received during military leave depends on the type of pay. Remember that only wages paid by the PERS-participating employer are reported to PERS. Wages from a third party are not reported.

Differential wages

Some PERS-participating employers choose to pay all or a portion of an employee's wages while they are serving military duty. These are called "differential wage payments."

Payments can be for all or a portion of the employee's regular wages.

Reporting the wages

EDX will not allow you to submit wages and hours while an employee is on 05 – Military Leave status. Therefore, do not report differential wages to PERS until:

1. The employee returns to work.
2. You have submitted the Detail 1 record with 08 – Return From Leave status.
3. You have submitted the USERRA form.
4. PERS has processed your USERRA form.

Once these steps are complete, report the differential wages you paid the employee for each pay period. Enter the pay date on which they were paid and use a wage code of 01 – Regular Wages.

Even if it is months or years past the pay date, it's not necessary to use a retroactive wage code. Also, do not use wage code 11 — that code is only for reporting the regular wages the employee would have earned had they not left for military duty.

Detail 2 fields

SSN and name: Auto filled

Work Period Begin Date, Work Period End Date: Local governments need to include work period begin and end dates. Learn more in employer reporting guide 9, *Reporting Wages for a Qualifying Employee*.

Hours Worked: Number of hours for which employee is being paid. For example, if you paid your employee differential wages of half their pay, you would enter half their usual number of hours.

Wage Code: 01 – Regular wages.

Subject Salary (Regular): Gross amount of pay.

Continued

ADD/EDIT A MEMBER RECORD

The status of this member record is: **Added**

DETAIL 2 - WAGE AND SERVICE

SSN	·········
First Name	Jane
Last Name	Soldier
Pay Date	06/01/2024
	(MM/DD/YYYY)
Work Period Begin Date	
	(MM/DD/YYYY)
Work Period End Date	
	(MM/DD/YYYY)
Hours Worked (Regular)	20
Hours Worked (Overtime)	
Reported Wage Code	01 - Regular wages
Subject Salary (Regular)	640
Subject Salary (Overtime)	
Non-Subject Salary	
Lump Sum Payoff	

Gross Salary: Total pay (regular salary + any lump sum or reimbursement)

IAP contribution: Enter 6% of salary in the appropriate field, either MPAT, MPPT, or EPPT, depending on your employment agreement.

Remaining fields: Leave blank.

Click **Save**.

Lump Sum Vacation Payoff	
Gross Salary	640
Member Paid After-Tax Contribution (MPAT)	
Member Paid Pre-Tax Contribution (MPPT)	
Unit Contribution	
Employer Paid Pre-Tax Contribution (EPPT)	38.4
Optional Employer IAP Percentage	0%
Optional Employer IAP Contribution	
PERS Job Class Code	
Average Overtime Hours	
Employer Site Distribution Code	
Non PERS Data Memo	

Save   Cancel

Accrued leave such as sick leave, vacation leave, or compensatory time

EDX will not allow you to report regular salary while your employee is on military leave status. Therefore, if your employee is receiving accrued leave pay, such as sick leave or vacation, do not place your employee on leave until they are no longer receiving accrued leave pay.

Holiday pay

If a holiday falls during their leave, the employee is paid holiday pay. To pay them, you need to end their leave, pay them the accrued leave pay for however many days, then place them back on military leave the next business day.

Lump sum payoff

If your military employee chooses to cash out compensatory time or vacation time to supplement their military pay, follow these requirements:

- Report the payment to PERS on its own Detail 2 record, as shown below.

- Report it before or after their military leave, not during (because EDX will not allow you to report pay during military leave).

- The pay date must be within 30 days of the leave begin date or within 30 days after the return-from-leave date in order to post correctly to their account.

- Lump sums paid to Tier One and Tier Two members are subject salary. When reporting a lump sum for Tier One/Tier Two, include a 6% IAP contribution in the EPPT, MPPT, or MPAT field.

- Lump sums paid to OPSRP employees are non-subject salary. When reporting a lump sum for OPSRP, do not include a 6% IAP contribution.

DETAIL 2 - WAGE AND SERVICE

Field	Value
SSN	*********
First Name	Jane
Last Name	Soldier
Pay Date	06/01/2024 (MM/DD/YYYY)
Work Period Begin Date	(MM/DD/YYYY)
Work Period End Date	(MM/DD/YYYY)
Hours Worked (Regular)	
Hours Worked (Overtime)	
Reported Wage Code	
Subject Salary (Regular)	
Subject Salary (Overtime)	
Non-Subject Salary	
Lump Sum Payoff	2027.76
Lump Sum Vacation Payoff	
Gross Salary	

Effect of reduced hours on qualification status

While serving military duty, your employee may have no or very few hours reported.

- While on 05 – Military Leave, they have no hours reported.

- If they are not on leave because they are receiving accrued leave pay such as sick leave or vacation, they may have only a few hours reported.

The reduced hours will not affect their qualification status. When PERS receives the completed USERRA form, the employee receives service credit for hours they would have normally worked.

If their military leave does not qualify for USERRA, then they will not receive service credit for their leave and they may not qualify for PERS benefits that year.

Effect of military leave on wait time

If an OPSRP member is called to military duty during their six-month wait time, their leave counts toward their wait time if the leave is USERRA qualifying. They will not have to make up the time they were gone, nor will they have to restart their wait time. Their contribution start date will occur on the day after their six-month wait time, as if they had never left.

If employee is not returning to work

Your employee must return to work for the same employer to earn retirement benefits for their military leave. If your employee cannot return because of injury or death, follow the instructions below. If they choose not to return, report their termination as explained in the third subsection below.

Because of injury

If your employee becomes injured or sick during military duty and needs to take a medical leave to recover, place them on a family leave (if they are not using sick leave) as explained in employer reporting guide 13, *Family and Medical Leave*.

During their leave, do not report insurance payments they receive from their military branch. Only report payments they receive directly from their employer, such as sick leave or gross-up pay.

If your employee becomes injured or sick and can no longer work, they can apply for disability benefits from PERS. To learn about disability, read employer reporting guide 14, *Disability Benefits*.

Because of death

If your employee dies while on military leave, follow the instructions in employer reporting guide 15, *Reporting a Termination or Death* to report the death to PERS. The employee is still entitled to the retirement benefits they earned during their military service, so you still need to submit a USERRA form and wage records to PERS.

Because they quit or retire

If your employee informs you that they will not be returning to work because they are quitting or retiring, their military leave will not be eligible for USERRA, and they will not earn retirement benefits for the period they were on military leave.

In this case, you will not need to report to PERS the wages they would have earned during their leave. Instead, only submit a Detail 2 record with a Termination status code, as explained in employer reporting guide 15, *Reporting a Termination or Death*. EDX will not allow you to terminate an employee who is on a leave status, so ensure that the last day of service on the record is before the start of their leave. That way the termination status supersedes the leave status.

If your employee is retiring, you can learn how to help them with the retirement process by reading employer reporting guide 16, *Reporting a Retirement*.

After military leave

When your employee returns from military leave, you need to do three steps within 30 days:

1. Fill out and submit the USERRA certification form.

2. Report wages you paid them during their military leave, if applicable, using wage code 01 – Regular Wages. Wait to hear from PERS before moving to step 3.

3. Once we notify you that the employee's USERRA employment segment is established in their employment record, report the wages they would have earned during their leave (minus any wages, accrued-leave time, or holiday pay they were actually paid) using wage code 11 – USERRA Qualifying Wages.

PERS uses this information to calculate the pension benefits they earned during their leave.

Submit USERRA certification form

It is up to the employer to determine if an employee's military leave qualifies for USERRA. If it does, then complete, sign, and submit the PERS USERRA certification form (linked below) as soon as the member returns from leave. PERS cannot take any action until we receive the form, so aim to submit it within **30 days** of the employee's return date.

PERS form 459-451 USERRA

On the form, fill in the dates of the employee's military leave, wages the employee would have earned, and type of IAP contribution your organization provides the employee.

Section C: Qualifying time period

Last date of employment or paid leave prior to USERRA-qualifying time: _____, _____, _____.
(month) (day) (year)

Time period that qualifies under USERRA: from _____, _____, _____to _____, _____, _____.
(month) (day) (year) (month) (day) (year)

First date of employment or paid leave following USERRA-qualifying time: _____, _____, _____.
(month) (day) (year)

Section D: Salary that would have been earned during each month of USERRA qualifying time

Year	Jan.	Feb.	March	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.

Section E: Contributions (Check only one box.)

1. ☐ Member contributions would have been paid by the employer (EPPT).
2. ☐ Member contributions were paid by the member pre-tax (MPPT).
3. ☐ Member contributions were paid by the member after tax (MPAT).

Calculating monthly salary

Report the salary the employee would have earned if they had remained at their job.

That salary includes:

- What the employee was making when they left for military service.

- Any cost-of-living increases or other raises or benefits they would have gotten.

- Any wage increases they would have earned because of their longevity or seniority of position.

- Average overtime the employee would have worked.

That salary does not include:

- Any salary you paid the employee, such as differential wages, sick leave, or vacation.

- Any payments the employee received from a third party.

If employee received differential wages

Subtract the differential wage payments you paid the employee each month from the amount of retroactive salary you report on the USERRA form. For more detail, read employer announcement 33, "USERRA."

If employee pay varies

If their pay varies, then compute their salary based on their average rate of compensation during the 12-month period immediately preceding the military leave (or, if shorter, the period of employment immediately preceding such period).

Report retroactive wage amounts

Once we receive the USERRA certification form, PERS activates a USERRA employment segment. We will notify you when the employee's account is ready for you to start reporting the wages that the employee would have earned during their military leave.

Next, submit a Detail 2 record with wage code 11 - USERRA Qualifying Wages for each reporting period of the employee's military leave. Each Detail 2 record will include wages, hours, and IAP contributions (if EPPT) that would have been reported had the employee never left for military service.

Important:

- Make sure to create the Detail 2 records in a Regular report. You can't submit this type of record in a Demographic and Adjustment report.

- The USERRA salary entered in EDX must match the salary you reported on the USERRA form.

Filling out the Detail 2

SSN and name: Auto filled.

Pay date: Scheduled pay date of each pay period that occurred while employee was on military leave.

Work period dates: Must be entered for local government employees.

Hours worked: 0 or leave blank.

Wage code: 11 – USERRA Qualifying Wages.

Subject salary (Regular): Amount employee would have earned in that pay period.

Continued

DETAIL 2 - WAGE AND SERVICE

SSN	*********
First Name	Shannon
Last Name	Soldier
Pay Date	03/01/2024
	(MM/DD/YYYY)
Work Period Begin Date	
	(MM/DD/YYYY)
Work Period End Date	
	(MM/DD/YYYY)
Hours Worked (Regular)	0
Hours Worked (Overtime)	
Reported Wage Code	11 - USERRA Qualifying Wages
Subject Salary (Regular)	4,215.76
Subject Salary (Overtime)	
Non-Subject Salary	
Lump Sum Payoff	

Gross salary: Total of salary and any lump sums or other payments that are subject salary. To see if a type of payment is subject or non-subject salary, check the payment categories chart.

EPPT: Enter the 6% IAP contribution.

MPAT or MPPT: These types of IAP contributions for USERRA wages are paid outside of EDX. Do not include them on the record.

Click **Save**.

Lump Sum Vacation Payoff	
Gross Salary	4,215.76
Member Paid After-Tax Contribution (MPAT)	
Member Paid Pre-Tax Contribution (MPPT)	
Unit Contribution	
Employer Paid Pre-Tax Contribution (EPPT)	252.95
Optional Employer IAP Percentage	0%
Optional Employer IAP Contribution	
PERS Job Class Code	
Average Overtime Hours	
Employer Site Distribution Code	
Non PERS Data Memo	

Save   Cancel

Pay IAP contributions

The method of paying IAP contributions depends on the employee's PERS plan and the type of IAP contribution: employer-paid pre-tax (EPPT), member-paid pre-tax (MPPT), or member-paid after-tax (MPAT).

For Tier One and Tier Two employees, IAP contributions owed for the employee's military service must be paid to PERS before PERS can grant service credit for the military leave.

For OPSRP employees, service credit for the military leave is awarded regardless of IAP contribution payment.

Note about earnings/losses: Earnings or losses begin to accrue on make-up contributions the year the member returns to work following the USERRA leave.

Paying EPPT IAP type

Tier One/Tier Two

The employer must submit IAP contributions on the wages the employee would have earned during their leave. When you submit wage records with wage code 11 – USERRA Wages, include 6% EPPT IAP contributions on each wage record. You will be invoiced for these contributions on your next statement.

Employers using the EPPT contribution method need to submit USERRA documentation to PERS by whichever of the following deadlines occurs later:

- 90 days from a member's return date to work.
- The close of the year in which the member returned to work.

PERS will grant the employee's service credit after the IAP contributions are paid.

OPSRP

Same as Tier One/Tier Two, except that service credit is granted automatically.

Paying MPPT or MPAT IAP type

Tier One/Tier Two

Tier One/Tier Two members who pay IAP by MPPT or MPAT must pay the contributions directly to PERS to receive service credit for their military leave. If they pay a portion of the IAP contributions, they will earn that portion of service credit.

Beginning at their return date, the employee has three times the length of military service, but not more than five years, to pay the IAP contributions.

Upon receipt of the USERRA form, PERS will inform the employee of the amount they need to pay and options for payment. The employee can pay the make-up contributions in a lump-sum payment or in installments.

OPSRP

OPSRP employees are not required to pay MPPT or MPAT IAP contributions to receive service credit for their leave. They can choose to pay the contributions to ensure no loss of income in their IAP account. If they choose to pay, it must be reported as MPAT because they cannot submit payment to PERS on a pre-tax basis. If they choose not to pay, their employer must still submit wage records for the employee no later than 90 days after they returned to work.

Military service time purchases for Tier One and Tier Two

Purchasing service credit for prior military service

A Tier One/Tier Two active or inactive member can purchase up to four years of military time that they served before coming to work for a PERS employer. For rules, go to the Tier One/Tier Two Purchases webpage, section "Alternate Purchase of Military Service Time."

Purchasing service credit for non-USERRA military service

If your Tier One/Tier Two employee's military leave does not qualify for USERRA, they can purchase the service time they did not earn during their leave. For this purchase, the member must pay PERS the full cost to the system of providing the additional retirement credit to the member, plus a $145 fee to cover administrative costs of processing the purchase. That purchase cost can be substantial, particularly if the purchase allows a member to retire before reaching normal retirement age.

Purchases are only available to Tier One/Tier Two employees.

To learn more, go to the Tier One/Tier Two Purchases webpage, General Service Time Purchases section, Full-Cost Purchase tab.

Other types of military leave

An employee can take military leave for military service, military training, or spouse's military service. They can also take a military leave that does not qualify for USERRA.

Leave with pay for active service or annual training — state employees

According to the Department of Administrative Services HR Policy 60.000.25, eligible employees called to annual active duty for training (or active duty in lieu of training) are granted military-training leave with pay for **up to 21 work days**.

In this situation, because the employee is continuing to receive pay from the employer, do not place your employee on a leave status with PERS. Report their hours, wages, and contributions as normal.

Leave without pay for spouse of military member

According to Oregon Revised Statute 659A.093, during a military conflict, an employee who is a spouse of a member of the Armed Forces of the United States, the National Guard, or the military reserve forces of the United States is entitled to a total of 14 days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment.

The employee is entitled to keep their position and continue accruing benefits after they return from leave. In this situation, if your employee takes leave that lasts the majority of a calendar month (i.e., at least 11 working days), report the employee as on leave. Submit a Detail 1 record with a 03 – On Family Leave status code, as explained in employer reporting guide 13, *Family and Medical Leave*.

Non-USERRA military leave

It is uncommon for a military leave to not qualify for USERRA. However, if your employee's military leave does not qualify, report your employee as on 05 – Military Leave at the beginning of their leave and report them as 08 – Return From Leave when they return (if they return to working for you).

You do not need to do any additional reporting. Your employee will not earn retirement benefits for the period(s) they were on leave without pay.

If your employee is not returning to work for you, you can report their termination by following the steps in employer reporting guide 15, *Reporting a Termination or Death*. If their last day of service is before the first day of their leave, the termination status will supersede the leave status. The termination record will serve double duty by ending the leave and reporting the termination.

Questions and help

Direct your employees to the member webpage: Reemployment Under USERRA.

They can also contact PERS Member Services.

By phone:

8:30 a.m. to 5 p.m. Monday through Friday
888-320-7377 (toll free)
503-603-7766 (TTY)

By email:

Submit a Question form

If you have problems with USERRA reporting, contact the PERS employer call center at 503-603-7788, toll-free at 888-320-7377, or e-mail pers.edx.support@pers.oregon.gov.