

Military Fact Sheet-Benefits for Federal Civilian Employees Who Perform Active Military Duty

Revised 07/02 /2008

On October 13, 1994, the Uniformed Services Employment and Reemployment Rights Act (USERRA) passed. USERRA expanded the rights of employees entering uniformed services, therefore, giving employees options related to their employment and benefits. The following is a checklist designed to counsel the employee on their benefits and provide an opportunity for them to make elections regarding their options.

Pay. Employees performing active military duty will receive compensation from the military component in accordance with the terms and conditions of the military enlistment or appointment. **Employees will not receive any compensation from the civilian employing agency unless the employee elects to use available military leave or annual leave.**

Military Leave. Employees who perform active military duty may request the use of paid military leave. Eligible full-time employees accrue 15 calendar days of military leave and may have up to 30 calendar days of military leave for use during the fiscal year. Military leave is charged in hourly increments, and charged based on civilian position scheduled workdays.

Employees who enter into active duty may choose to have their annual leave remain to their credit until they return to their civilian position, OR receive a lump-sum payment for all accrued annual leave. This provision applies whether or not an employee is placed on LWOP or separates.

(Revised) Additional 22 days of Military Leave. Reservists or National Guard members who perform military duty in support of civil authorities in the protection of life and property are eligible for an additional 22 workdays of military leave under 5 U.S.C. 6323(b). In addition, effective November 24, 2003, employees who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code, (The term "Contingency Operation" means a military operation that (a) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (b) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of title 10, U.S.C., chapter 15 of title 10, U.S.C., or any other provision of law during a war or during a national emergency declared by the President or Congress), are entitled to 22 days of military leave under 5 U.S.C. 6323(b).

Based on 5 U.S.C. 5519, **an employee is entitled to the greater of his civilian or military pay but not both.** The military pay received by an individual who has been activated in support of civil authorities or a contingency operation must be credited (less any travel, transportation, or other per diem allowances) against any Federal civilian pay the employee received during the 22 workdays of military leave. Click on link for additional information on military leave <https://www.opm.gov/oca/LEAVE/HTML/MILQA.asp>

Health Benefits. Employees who are covered by the Federal Employees Health Benefits Program (FEHBP) and are either separated or placed in a LWOP status to perform military service may continue to be covered by FEHB for up to 24 months, (after which the coverage would be terminated), unless the employee elects in writing to have the enrollment terminated beforehand. If the employee chooses to continue the FEHB, and the employee has been called to active duty in support of a contingency operation, the agency will pay the employee share of the premium for up to the 24 months period before termination. If the employee's military service is not in support of a contingency operation he/she is responsible for paying the employee share of the premium for the first 12 months and the employees share, government share and a 2% administrative fee for the last 12 months of continued coverage. After the 24 month period the FEHB coverage would be terminated. The first 12 months of the FEHB premium may be paid currently (generally with after-tax monies) or incur a debt to be paid upon their return (generally on a pre-tax basis if the employee participates in premium conversion). The second half of the FEHB 12 month premium must be paid on a current regular basis, you may not accrue a debt.

Note: Termination is not considered a break in coverage for purposes of meeting the 5-year/first opportunity requirement to continue FEHB into retirement.

(New Additional Coverage) Life Insurance. Employees who are placed on LWOP to perform active duty service or active duty for training in one of the uniformed services for more than 30 days, continue to be covered by the Federal Employees' Group Life Insurance (FEGLI) for up to 12 months at no cost to the employee, an employee may elect an additional 12 months coverage (for a total combined coverage of 24 months), however, employees must pay both the employee and agency share of premiums for their Basic coverage, and pay the entire cost (there is no agency share) for any Optional insurance for the additional 12 months of coverage. Election for the additional 12 month coverage must be received by the employing office before the end of the first 12 months in nonpay status.

If you indicate that you elect to terminate your FEGLI coverage at the end of the first 12 months in nonpay status or if we do not receive a completed election form from you prior to the end of the first 12 months period, your FEGLI coverage will be terminated at the end of 12 months in nonpay status. Your coverage will continue for an additional 31 days at no cost to you. During the 31 days, you will be eligible to convert to an individual policy and you will be given information regarding your right to convert to an individual policy.

(New) Death Gratuity Benefit

Public Law 110-181, enacted on January 28, 2008, adds a new death gratuity of up to \$100,000 to the survivors of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a Contingency operation. This gratuity is payable by the U.S. Department of Labor, Office of Workers Compensation Programs (OWCP), as a death benefit under the Federal Employees Compensation Act (FECA), Title 5 U.S.C. 8102(a). OWCP has created a form which is used for all deployed or to be deployed DoD civilians in a contingency zone of operations because of the unique order of payment precedence set out in this law, one which permits up to 50% of this gratuity to be paid to individual(s) designated by the employee. The form may be found at [http://www.dol.gov/esa/regs/compliance/owcp/DesignationForm\(4-4-08\).doc](http://www.dol.gov/esa/regs/compliance/owcp/DesignationForm(4-4-08).doc) . The new form must be signed by both the employee and an employing agency representative before it will be recognized as valid. The signed form will then be retained in the employee's Official Personnel Folder.

Retirement. An employee who is placed on LWOP while performing active military duty continues to be covered by the retirement law, i.e., CSRS or FERS. Death and disability benefits under the civilian retirement rules would apply if the employee continues in LWOP. If an employee separates to perform active military duty, he/she would generally receive retirement credit for the period of separation if a deposit for the military service is made. Upon restoration to the civilian position, the employee may make a deposit for the military service. The deposit would equal the lesser of **1)** 7% (or 3% for FERS) of the military basic pay **OR 2)** 7% (or .8% for FERS) of the civilian pay. (Deposit amounts may vary by year because of law or regulation.) If the military deposit is paid before the interest accrual date (within 3 years of returning to a covered position) no interest is charged on the military deposit.

Thrift Savings Plan. No contributions can be made to the TSP while on LWOP or if separated from the civilian position. However, if the employee is restored to his/her civilian position, retroactive contributions and TSP elections may be made to cover that period of service. Employees interested in making retroactive contributions must contact their servicing payroll office to setup a payment plan. Employees should be aware that the money they can contribute retroactively to their civilian accounts will be offset by any contributions made to their uniformed services TSP account while on active duty. FERS employees are entitled to receive matching funds based on contributions made from basic pay while in the uniformed services, if the employee is restored on their civilian position.

Uniformed services accounts are maintained separately from civilian accounts. However, if you contribute to both, the sum of your contributions to the two accounts during the same calendar year cannot exceed the applicable IRS annual deferral limits. Members of the uniformed services have access to the TSP loan program. However, reservists who drill only monthly should think seriously before taking a loan from their military accounts because they may be unable to repay the loan in the time frame required by law. You are prohibited from repaying a uniformed service TSP loan from your civilian pay, or vice versa. Once you separated from either the uniformed service, or the Federal

civilian service, you will be able to combine your TSP accounts by contacting the TSP Service Office.

5 workdays of Excused Leave – Five workdays of excused absence, without charge of leave will be granted for employees returning to Federal civilian employment when activated in connection with Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom. Further guidance may be found at <http://www.opm.gov/oca/compmemo/2003/2003-14.asp>

If you have any further questions, please contact your servicing personnel office at: <http://www.hr.dla.mil/cntctus.htm>.