



## Ohio Administrative Code

### Rule 123:1-34-05 Uniformed service leave without pay.

Effective: October 6, 2013

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(A) A military leave without pay is an approved leave of absence and shall be treated as such. An employee who has exhausted their calendar year allowance of military leave with pay or who chooses not to use available military leave with pay for an active duty call-up is entitled to take military leave without pay. An employee that has accrued leave or compensatory time available at the time of an active duty call-up may choose to use such accrued leave, compensatory time, or a combination of both to cover the employee's active duty call-up in-lieu of taking military leave without pay. An employee's use of accrued leave, compensatory time, or a combination of both to cover an active duty call-up is at the employee's sole discretion.

(B) Employees that are exempt from collective bargaining do not accrue any form of leave while on military leave without pay. Employees that are in a bargaining unit shall accrue any form of leave in the same manner as any other bargaining unit employee under the applicable collective bargaining agreement who is on an approved leave of absence. Any such accrued leave to which a bargaining unit employee is entitled to under this rule shall not be credited to the employee until such time as the employee returns to work.

(C) An employee on military leave without pay has the right to be reinstated to the same or similar position if the employee meets the following criteria:

(1) The employee has been honorably discharged or has been released from active duty in an honorable status; and

(2) The employee makes a timely written request for reinstatement to the employee's appointing authority. The time period for making the request is dependent on the length of time of the employee's active duty call-up:

(a) If the active duty call-up was thirty days or less, the request for reinstatement shall be made immediately upon the employee's release from the active duty call-up, with reinstatement taking



place the first full regularly-scheduled work day following the employee's release from active duty allowing time for travel home plus eight hours for rest;

(b) If the active duty call-up was thirty-one days to one hundred eighty days, the request for reinstatement shall be made within fourteen days of the employee's release from the active duty call-up; or

(c) If the active duty call-up was in excess of one hundred eighty days, the request for reinstatement shall be made within ninety days of the employee's release from the active duty call-up.

(D) Pursuant to section 5923.051 of the Revised Code the employee, the employee's spouse, or the employee's dependent may maintain or reinstate health care benefits while the employee is on a federal active duty call-up. If health care benefits are maintained or reinstated under the provisions of section 5923.051 of the Revised Code, the employee remains responsible for paying the employee's share of such health care benefits and the appointing authority remains responsible for paying the employer's share of such health care benefits.

(E) An employee is eligible for a pay supplement from the employee's appointing authority when the employee meets the requirements set forth in section 5923.05 of the Revised Code.

(F) An employee reinstated from a military leave without pay is generally entitled to all rights and benefits available to an employee returning from an authorized leave of absence without pay, including but not limited to the following:

(1) All accrued leave and compensatory time which the employee had accumulated prior to going on the military leave without pay, less any such time the employee used while on the active duty call-up associated with the military leave without pay;

(2) All automatic salary adjustments associated with the employee's position that would have been due the employee during the active duty call-up associated with the military leave without pay as if the employee had been at work during that time;

(3) Any change in classification or pay range that would have occurred to the employee during the



active duty call-up associated with the military leave without pay as if the employee had been at work during that time;

(4) If necessary, reinstated health care benefits and related insurance benefits with no waiting periods or pre-existing condition exclusions; and

(5) Appropriate service time corresponding with the time the employee was on military leave without pay.