



## FAQS: Military Leave March 2025

### 1. What is Differential Compensation?

Differential compensation is designed to remove financial disincentives for military service. It applies when the civilian daily pay rate exceeds military pay and is limited to active service with pay.

Additional resources are also available from the Office of the Illinois Attorney General:

[Calculating Differential Pay Overview and Instructions](#)

[Simplified Differential Compensation Calculation Worksheet](#) (This document can be accessed by visiting the website and downloading it to your device.)

### 2. What is Concurrent Compensation?

Concurrent compensation provides full civilian pay during annual training. Under university policy, a deployment or mobilization in support of a named operation overseas qualifies for concurrent compensation. This does not apply to active duty performed in lieu of annual training. Employees can receive concurrent compensation for up to 30 days per calendar year, and these days do not need to be consecutive.

### 3. How do I know how much time off and pay I will receive while in military training or service?

Refer to the chart below for general guidance on how much time off employees will receive and if those days will be paid. Employees and/or units should contact their [Human Resources Leave Contacts](#) to discuss specific military leave situations.

Military Leave Type	Days Allowed (Paid)	Days Allowed (Unpaid)	Other Considerations
Training	30 days (regular university compensation)	Unlimited	The 30 days do not need to be consecutive.
Voluntary Active Service	60 Days (differential compensation)	Unlimited	Employees may use vacation/other leave in lieu of differential compensation. No differential compensation will be provided for active service without pay.
Involuntary Active Service	Unlimited (differential compensation)	Unlimited	Employees may use vacation/other leave in lieu of differential compensation. No differential compensation will be provided for involuntary active service without pay.
Call-Up for Active Duty	30 days (regular university compensation)	Unlimited	Compensation will be at the employee's regular hourly rate for non-overtime scheduled hours. After 30

			days, the employee may be eligible for differential compensation.
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**4. Can an employer deny military leave?**

*No. Employers cannot deny military leave under any circumstances. Military leave is a legal requirement upon receiving advance notice of pending military service.*

**5. Can an employer impose conditions on military leave?**

*No. Employers cannot impose conditions, such as requiring shift replacements, not mandated by law. However, employers may provide scheduling options in lieu of paid military leave.*

**6. Can an employer impose restrictions on voluntary military orders?**

*No. Employers cannot impose restrictions based on whether the military service is voluntary or involuntary.*

**7. Can an employer deny a service member leave if their military duty creates employment problems due to timing, frequency, or duration?**

*No, a service member is not required to accommodate their employer's needs regarding the timing, frequency, or duration of military leave. However, employers may bring such concerns to the appropriate military authority. Whether accommodation is granted is subject to military law and discretion.*

**8. What is the difference between Voluntary and Involuntary Active Service?**

**Voluntary Active Service** includes duties like:

- *Additional duty*
- *Funeral honors*
- *Unsatisfactory participation*
- *Disciplinary actions*
- *Extended active duty*
- *Reserve program administrator duties*

**Involuntary Active Service** Includes duties like:

- *Annual training or drills*
- *Pre-planned or pre-programmed combatant commander support*
- *Mobilization*
- *Presidential reserve, Muster duty, Retiree recall*
- *Captive status, Insurrection, or pending line of duty determination for sexual assault response*
- *Other duties as specified in applicable statutes*

**9. Are employees entitled to SURS benefits during military service?**

*Yes. Employees are entitled to all accrued pension benefits as if their civilian employment had been continuous. This includes:*

- *Defined benefit pensions*

- *Defined contribution plans*
- *Profit-sharing plans*
- *Single-employer and multiemployer plans.*

**10. Do employers have to make pension contributions while an employee is on military leave?**

*No. Employers are not required to make pension contributions until the service member returns to work.*

**11. When must employers make pension contributions after the employee returns?**

*If the pension plan does not require employee contributions, the employer has:*

- *90 days after reemployment, or*
- *The usual contribution deadline for the year of military service, whichever is later.*

**12. How do contributory pension plans work for reemployed service members?**

*For contributory pension plans:*

- *Employer contributions depend on the SURS plan the employee is enrolled in.*
- *Service members have up to three times the length of their military service (not exceeding five years) to make up their contributions.*
- *Service members can make up all, part, or none of their contributions. The employer's contributions are based on what the service member chooses to contribute..*

**13. Is it compliant with ISERRA for an employer to require an employee to work an overnight shift immediately before traveling directly to a military duty location?**

*No, this is not compliant. Under ISERRA, an employee must be allowed enough time off to travel safely to their military duty location and arrive fit for duty. Traveling directly from an overnight shift without adequate rest does not meet this standard. Employees may also require reasonable time off to manage personal affairs before reporting for duty.*

**14. What should an employer do if an employee returning from military duty has "Bad Conduct Discharge" listed on their DD214?**

*Employers may deny reemployment in this case. ISERRA provides foundational protections that do not supersede or diminish other federal, state, or local laws, agreements, or policies offering additional rights or benefits. An employee discharged under "bad conduct" conditions may not qualify for reemployment protections under this Act.*

**15. Can an employer deny reemployment?**

*Yes, but only under specific conditions:*

- *The employee fails to meet eligibility criteria*
- *The employee exceeds five years of cumulative military leave with the same employer.*
- *The employee fails to timely return or apply for reemployment.*
- *The employee receives a disqualifying discharge.*

**16. Can an employer deny reemployment to a returning service member who provides a letter from their commander verifying an honorable discharge instead of a DD214?**

*No. Under ISERRA (Illinois Service Member Employment and Reemployment Rights Act), a letter from the service member's commander verifying an honorable discharge is sufficient evidence. Employers cannot deny reemployment based on the absence of a specific document, such as a DD214, when equivalent proof is provided.*

**17. Can an employer withhold differential pay without a Leave and Earnings Statement (LES)?**

*Yes. Employers may withhold differential pay until the employee provides an LES to calculate the amount owed. ISERRA does not conflict with fiduciary duties to taxpayers.*

**18. Does accepting Active Guard Reserve (AGR) orders mean an employee has abandoned their civilian position and forfeited rights under ISERRA?**

*Likely no, but the situation is not entirely clear. Some case law has treated long periods of certain service as abandonment, potentially waiving reemployment rights. However, this conflicts with ISERRA's Section 5-5 (and USERRA Sec. 4312(h)), which prohibits denial of rights based on the timing, frequency, duration, or nature of military service. Employers should exercise caution in pursuing this argument. The service still counts toward the 5-year limit, and any differential pay is limited to 60 workdays per calendar year. Employers may also request accommodations for timing, frequency, or duration.*

**19. What is the length of entitlement to differential pay for the following types of orders?**

- **Air National Guard under 32 U.S.C. 502(f)(1)(A) with "voluntary" in the orders:** Involuntary; the authority is listed under subsection (2) as involuntary.
- **USMC Reserve under 10 U.S.C. 12378 without "voluntary" specified:** Involuntary; the authority is not listed under subsections (1) or (2) and therefore falls under the "catch-all" provision.
- **Army National Guard under 32 U.S.C. 502(f) with "voluntary" specified:** Voluntary; the authority is listed but not complete; we can look to language within the order to determine the authority.

**20. What should an employer do if they have trouble interpreting military orders? (slide 76-77)**

*Employers can contact the helpline at 1-800-382-3000 or visit the Illinois Attorney General's website at <https://illinoisattorneygeneral.gov/rights-of-the-people/military-and-veterans-rights/> for assistance.*

**21. Who should employees contact for questions?**

*[Human Resources Leave Contacts](#) are available to address employee questions.*