



Military Service Guidebook for Plan Members & Reporting Agents

NEBRASKA PUBLIC EMPLOYEES
RETIREMENT SYSTEMS

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IMPORTANT

Statutory Disclaimer. This guidance document is advisory in nature but is binding on NPERS until amended by NPERS. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

Summary. This document provides a summary of the process, and tools for employer reporting agents and plan members, related to contributions, service credit, and/or vesting credit impacted by a leave of absence tied to military service.

Order of Precedence. If this document conflicts with the governing law and/or rules and regulations, the governing laws and/or rules and regulations supersede this document.

INSTRUCTIONS

This guidebook provides instruction to employer reporting agents and plan members when a plan member is called to military service.

Non-Contributing Member Information (Non-Con)

All employers covered by an NPERS administered plan must submit a Non-Con to NPERS stating a member has a break in contributions related to military service within twenty (20) calendar days after the member leaves for military service.

Please refer to your applicable Employer Reporting Manual for information on submitting Non-Con information to NPERS. Employer reporting manuals may be found on the [Nebraska Public Employees Retirement Systems](http://npers.ne.gov) website (npers.ne.gov) under the applicable "Employer Reports" webpage.

Reemployment

To qualify for military service credits/benefits, a member must reemploy with their pre-military service employer after military service as prescribed by the Uniform Servicemembers' Employment and Reemployment Rights Act (USERRA) or Nebraska law.

MEMBER NOTICE REQUIREMENTS

General Requirement(s)

Following timely reemployment, a member must notify NPERS in writing of whether they wish to invoke the option for make-up of missed contributions, vesting credit, and creditable service for the period of military service.

Contents

The member's written notice must include:

- One of the following in order of priority and as applicable for the type of military service performed:
 - A copy of the member's DD Form 214,
 - A copy of the member's certified orders, or
 - An original verification of service memorandum signed by the member's commanding officer, and
- Any other documentation required by NPERS to verify the length of the military service, performance of the military service, and an honorable release from military service.

Filing Deadline

The member's written notice must be received by NPERS within a period equal to three times the length of the military service, not to exceed five (5) years, from the date the member's military service ended, or

before termination of employment, whichever occurs first. Failure to timely file the notice may forfeit the member's protections under Nebraska law and/or USERRA, as applicable.

Samples

Member Notification Letter. A sample member notification letter in fillable pdf format can be found in Appendix 1. Please note, only one of the option blocks in the first paragraph of the Sample Member Notice Letter may be selected. Please ensure all fields are properly completed and the document is signed. Failure to comply with these requirements may forfeit the member's protections under Nebraska law or USERRA, as applicable.

Verification of Military Service Memorandum Text. Sample text for the Commander's verification of military service memorandum may be found in Appendix 2. The memorandum should be on the military unit's letterhead. All the fields highlighted in grey must be adjusted to the unique situation.

EMPLOYER REQUIREMENTS

The employer must provide NPERS the following information for a member reemployed following military service:

1. The member's demographic information.
2. The total compensation the member would have earned from the employer during the period of military service had the member not been absent, if reasonably determinable.

If, and only if, the employer cannot reasonably determine what the member would have earned during the period of military service, then the employer must determine the length of the member's military service and provide NPERS the total compensation the member earned from the employer during an equivalent period going back from the date the military service began, not to exceed twelve (12) months, and use this information to project the member's compensation during the period of military service.

For example, if the member was absent due to military service for a period of nine (9) months, and the employer cannot reasonably determine what the member would have earned during the nine (9) months of military service, then the employer must look at the nine (9) month period immediately preceding the military service to determine the total compensation earned by the member during that nine (9) month period, and report that compensation to NPERS.

3. The amount of the member and employer contributions that would have been reported on the compensation determined under item 2, above.
4. The amount of service (i.e., number of hours of work) the member would have rendered during the period of military service.

If, and only if, the employer cannot reasonably determine the amount of service the member would have worked during the period of military service, then the employer must determine the length of the member's military service and provide NPERS the amount of service the member worked for the employer during an equivalent period going back from the date the military service began.

For example, if the member was absent due to military service for a period of nine (9) months, and the employer cannot reasonably determine the amount of service the member would have worked during the nine (9) months of military service, then the employer must look at the nine (9) month period immediately preceding the military service to determine the amount of service worked by the member during that nine (9) month period, and report that service to NPERS.

Sample Employer Reporting Document. A sample document for employer reporting agents to use to provide this information in fillable pdf format can be found in Appendix 3. Please note, only one of the option blocks in the first paragraph of the Sample Member Notice Letter may be selected. Please ensure all fields are properly completed and the document is signed.

PROCESSING MILITARY SERVICE REQUESTS

NPERS will process military service requests as soon as administratively possible, subject to the agency's competing priorities and staffing levels. Priority may be given to members nearing retirement or termination of employment.

The NPERS Accounting/Employer Reporting Department will review all information received and determine:

1. Whether the member's service qualifies under Nebraska law, USERRA, or both,
2. Whether NPERS has received all necessary information to determine the missed compensation, contributions, vesting credit, and/or service credit, as applicable, during the period of military service, and
3. The amount of the compensation, contributions, vesting credit, and/or service credit, as applicable, during the period of military service.

If NPERS Accounting/Employer Reporting Department determines all requirements are satisfied, and all necessary information has been obtained, they will forward the file to the NPERS Legal Counsel for review/audit.

If the NPERS Legal Counsel approves the request, the NPERS Accounting/Employer Reporting Department will submit a request for payment to the member, employer, or both, as applicable, and await payment.

Payment Requirements

Under Nebraska law the member is not required to make up missed contributions to trigger the employer match, award of creditable service, and/or award of vesting credit, as applicable. Rather, the Nebraska law **requires the employer to make up both the member and employer contributions** during the period

of military service. However, the **member must remain employed with the pre-military service employer until the employer has made up all missed contributions** necessary to fund the member's benefit.

Posting of Contributions

NPERS will post employer-paid contributions to the employer account.

Posting will occur as soon as administratively possible following receipt of the contributions, subject to the agency's competing priorities and staffing levels. Priority may be given to members nearing retirement or termination of employment.

Posting of Creditable Service and Vesting Credit

NPERS will post creditable service and/or vesting credit, as applicable, to a member's account as soon as administratively possible following receipt of the contributions, subject to the agency's competing priorities and staffing levels. Priority may be given to members nearing retirement or termination of employment.

State Active Duty

State Active Duty is covered by USERRA.

APPENDIX 1

(Insert Date Request Was Signed)

Attention: Employer Reporting/Accounting
Nebraska Public Employees Retirement Systems (NPERS)
1526 K Street, Suite 400
P.O. Box 94816
Lincoln, NE 68509-4816

RE: Request for Military Service for _____

(Insert Member's Name)

To Whom It May Concern:

I wish to invoke **BOTH** the governing Nebraska law **AND** USERRA to have both the employee and employer contributions associated with my period of military service made up by my employer per the Nebraska law, rules, and regulations, governing the plan in which I participate.

I understand this request requires the employer to make up both the employee and employer contributions for the period of the military orders and any preparation period before, or rest period after, the military orders within the prescribed timeframes or before termination, whichever occurs first, or I will forfeit the option to do so.

My military orders –

Began on: _____ and
Ended on: _____.

I certify my period of leave without pay due to military service –

Began on: _____ and
Ended on: _____.

I certify I incurred a period of leave without pay (LWOP) to prepare for my military service/orders that complies with USERRA and that –

Began on: _____ and
Ended on: _____.

I certify I incurred a period of leave without pay (LWOP) to rest after my military service/orders that complies with USERRA and that –

Began on: _____ and
Ended on: _____.

I requested reemployment with my pre-military service employer on _____.

I returned to work with my pre-military service employer on _____.

I am currently working for my pre-military service employer.

I attached (in order of priority and subject to availability based upon the military service performed):

- A copy of my DD Form 214,
- A copy of my certified orders, or
- An original verification of service memorandum signed by my commanding officer.

I understand I must submit evidence showing I was honorably released from military service. Such evidence may include my DD Form 214, a certified order signed by a military supervisor who can attest to my military service, a memorandum from my Commander stating I was honorably released from military service, and/or any other documentation NPERS requires to verify the length and performance of my military service.

I acknowledge and understand I cannot have contributions made up for any period in which contributions were already made, including, but not limited to:

- Any period where I worked for the employer and contributed to the retirement system from compensation for services rendered, or
- Any period where I used any form of paid leave offered by the employer, labor contracts, governing law, etc., and contributed to the retirement system from compensation associated with the paid leave.

I am the point of contact for this letter. You may contact me at:

Mailing Address: _____

Email Address: _____

Phone Number: _____

Sincerely,

(Member's original, wet-ink signature required)

APPENDIX 2

SAMPLE TEXT FOR THE COMMANDER'S VERIFICATION OF MILITARY SERVICE MEMORANDUM

DATE: [Insert Date]

TO: NPERS

FROM: [Insert Commander's Name and Rank]

RE: [Insert Plan Member's Name and Rank] – Verification of Military Service

1. I certify that [Insert Plan Member's Name and Rank] honorably performed military service from [Insert Start Date and Time] until [Insert End Date and Time] at [Insert Duty Location]. Individual orders are not issued for this type of military service.
2. The statutory authority for the type of military service performed is [Insert Statutory Authority].
3. Per USERRA, all military service members are entitled to reasonable travel time to/from military service, and eight (8) hours rest after performing military service, before returning to work. Thus, [Insert Plan Member's Name and Rank] was not required to report back to work until after such period had elapsed.

//COMMANDER SIGNS MEMO//

[Insert Commander's Signature Block]

APPENDIX 3

(Insert Date of Response)

Attention: Employer Reporting/Accounting
Nebraska Public Employees Retirement Systems (NPERS)
1526 K Street, Suite 400
P.O. Box 94816
Lincoln, NE 68509-4816

RE: Information on Military Service for _____
(Insert Member's Name)

To Whom It May Concern:

The above-named employee has returned from military service. The employee's Social Security number is: _____.

The employee's military orders –

Began on: _____ and

Ended on: _____.

The employee's leave without pay period due to military service, including any preparation period before the military orders began that complies with USERRA and any rest period taken after the military orders that complies with USERRA, and that–

Began on: _____ and

Ended on: _____.

Compensation and Contributions. (Select only one (1) option below and provide the requested information for that option.)

_____ The employee's total compensation for the period of military service is reasonably determinable. Had the employee not been absent for military service –

The **employee's total compensation** for the period of the military service would have been \$_____;

The **member contributions** to retirement would have been \$_____; and

The **employer contributions** to retirement would have been \$_____.

_____ The employee's total compensation for the period of the military service is **not** reasonably determinable.

The **employee's total compensation** for a period equivalent to the period of the military service that immediately preceded the military service was \$_____.

The **member contributions** reported to retirement were \$_____; and

The **employer contributions** reported to retirement were \$_____.

Service (i.e., work hours). (Select only one (1) option below, and provide the requested information for that option.)

_____ The employee's total service for the period of military service is reasonably determinable. Had the employee not been absent for military service, the employee service would have totaled:

_____ hours.

_____ The employee's total service for the period of military service is **not** reasonably determinable. The employee's total service for a period equivalent to the period of the military service that immediately preceded the military service was

_____ hours.

I am the point of contact for this letter. You may contact me at:

Name: _____

Mailing Address: _____

Email Address: _____

Phone Number: _____

Sincerely,

(Reporting Agent's original, wet-ink signature required)