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ADDITIONAL REFERENCE MATERIAL:
Uniformed Services Employment and Reemployment Act of 1994 (USERRA);
U.S. Department of Labor Employment Law Guide for USERRA
http://www.dol.gov/compliance/guide/userra.htm
U.S. Department of Defense Employer Support of The Guard and Reserve (ESGR)
www.ESGR.mil
Management Advisory 15-003 (REVISED) issued May 18, 2015, by the Division of State Group Insurance (DSGI)

I. SCOPE AND PURPOSE

Employees paid from Other Personal Services (OPS) funds who meet the eligibility criteria of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) or the Florida Uniformed Servicemembers Protection Act (under Chapter 250, F.S.) are afforded certain job protections while in active military service. When covered by these federal or state laws, OPS employees will be placed on unpaid military leave. In addition, there are other OPS employees for whom there is a compelling public interest in granting unpaid military leave, as described below.

These guidelines set forth the criteria by which an OPS employee will be eligible for military leave without pay (LWOP), as well as the required procedures by which military LWOP will be processed.
Program Guidelines

All military LWOPs for OPS employees will require use of Personnel Action Requests (PARs) in the People First system in order to comply with requirements of the federal Affordable Care Act (ACA), which qualifies certain OPS employees for health insurance coverage through the employer, if they regularly work an average of 30 or more service hours per week. Because unpaid absences for military leave purposes are included in the calculation of these service hours, PARs are necessary to properly track military LWOP with respect to insurance eligibility.

II. DEFINITIONS

For the purposes of this document, the terms below are defined as follows:

**Active Military Service** - State active duty as a Florida National Guard member or federal active duty in service or training, as specified in section 115.08(1), F.S. **Note:** The terms “active duty” and “active military duty” as used in Chapter 115, F.S., Chapter 250, F.S., and Rule 60L-34.0062, F.A.C., have the same meaning as active military service.

**Florida National Guard Member** - An OPS employee who is a member of the Florida National Guard and who, when called to state active duty, has reinstatement rights under Chapter 250, F.S., and may continue employer subsidized health insurance coverage for the duration of the military LWOP under the provisions of section 250.341, F.S.

**National Guard Member** – An OPS employee who is a member of the Air National Guard or Army National Guard of any state (including Florida) or U.S. territory, as defined in section 250.01 (2) and (6), F.S., respectively, and who, when called to federal active duty, serves on the same basis as any other member of a reserve component of the U.S. Armed Forces; has reinstatement rights under USERRA; and may continue employer subsidized health insurance coverage for the duration of the military LWOP under the provisions of section 250.341, F.S., or the DMS Memorandum issued September 28, 2001, as applicable.

**Non-Reservist** - An OPS employee who is neither a member of the National Guard or the military reserves but, as a result of being drafted or volunteering to serve in the armed forces of the United States, has reinstatement rights under USERRA and may continue employer subsidized health insurance coverage for the duration of the military LWOP pursuant to DSGI Management Advisory 15-003 (REVISED) issued May 18, 2015.

**OPS Employee** - A State Personnel System (SPS) employee compensated from “Other Personal Services” (OPS) funds.

**OPS Employment Category** - The appointment type to which an OPS employee is assigned in lieu of a pay plan, (e.g., Temporary, Seasonal, Board Member, Student or Graduate Assistant, Contracted Physician, etc.) referred to as “Employee Subgroup” in the People First system.

**OPS Funds** - The appropriation category used to fund compensation for services rendered by a person who is not filling an established position.

**Period of Active Military Service** - The continuous interval during which the employee is in active military service, as specified in section 115.08(2), F.S., and which, regardless of how many times the employee receives new or amended orders before being released by the military and returning to work, shall constitute a single period of authorized military leave without pay.

**Positive Pay** - The method of payment whereby a timesheet recording hours of work must be submitted and approved (in the People First system) in order for the employee to receive any salary payment for the pay period in question.
Reservist – An OPS employee who is a member of a reserve component of one of the armed forces of the United States and who, when called into federal active duty, has reinstatement rights under USERRA and may continue employer subsidized insurance coverage for the duration of the military LWOP under the provisions of section 250.341, F.S.  **Note:** For brevity, the term “Reservist” used in this document also refers to National Guard members who have been called to federal active duty, inasmuch as they have the same rights and benefits under federal and state law, as described herein for OPS employees.

State Active Duty - Full-time service in the Florida National Guard when ordered by the Governor or Adjutant General of the State of Florida as specified in section 250.01(21), F.S.  (Also termed “Active State Duty” in statute.)

III. POLICY

1. In accordance with USERRA, an employee’s temporary or part-time status does not diminish rights (such as reinstatement) that are otherwise provided by federal law for reservists and non-reservists in federal active duty, unless the employer can demonstrate that the employee’s position was for a “brief, non-recurrent period” and there was no reasonable expectation that employment would have continued indefinitely or for a significant period. The same aforementioned criteria for determining reinstatement rights are also provided in section 250.482, F.S., with respect to state active duty in the Florida National Guard. This suggests that, for purposes of determining if OPS employees are eligible for reinstatement following active military service, the same standard applies for federal active duty and state active duty.

   In determining whether this standard has been met, it is reasonable and administratively feasible to rely on the employee’s current eligibility status for state group insurance, as provided in the federal ACA. Therefore, status as a “full-time” OPS employee as defined in sections 110.131(5) and 110.123(2)(c), F.S., will be the basis for determining if the OPS employee is eligible for military LWOP when engaged in active military service or any other type of military service (as described herein) for which military LWOP shall be granted.

2. Additionally, as a matter of SPS policy, the military LWOP of full-time OPS employees performing state active duty in the Florida National Guard (whose job protections derive from state law rather than USERRA) will also be counted in determining eligibility for health insurance coverage.

3. Eligibility for reinstatement on the basis of current “full-time” status is not dependent on whether the OPS employee is actually currently enrolled in state group insurance coverage. However, because reinstatement rights are specific to a particular job (position) within a particular employer (the SPS agency), agencies will need to verify that the OPS employee’s full-time status derives solely from employment within the SPS. If the employee’s full-time status is based on aggregated employment with multiple employers participating in the state group insurance program, the employee does not have job protection as contemplated by USERRA or state law, notwithstanding their eligibility for insurance benefits. Such employees do not qualify for military LWOP. See item number 7 for further information.

4. With respect to active military service that is covered by USERRA or state law, the paid leave provisions of sections 115.09, 115.14, or 250.48, F.S., (requiring agencies to maintain employees in pay status for the first 30 days of military leave) and the military supplement provisions of section 115.14, F.S., (authorizing agencies to provide a military pay supplement to reservists), do not specifically provide for OPS employees. Furthermore, agencies are not authorized to use OPS funds for paid leave purposes. Consequently, all authorized periods of active military service for OPS employees shall be without pay.
OPS employees on any type of military leave will be placed on a PAR for military leave without pay and without supplement, as described in Part IV, below. However, use of the military leave without pay and without supplement PAR does not imply OPS employees are eligible for paid holidays or leave accrual. In accordance with section 110.131(3), F.S., the People First system provides no additional compensation or leave benefits when PARs are approved for OPS employees on military leave. However, agencies must manually voucher the employer subsidized health insurance in compliance with the DSGI Management Advisory 15-003 (REVISED) issued May 18, 2015. Furthermore, this PAR type is appropriate from an administrative stance, as it will provide consistent recordkeeping for OPS employees whose compensation and leave benefits remain the same regardless of military leave type.

5. With respect to recurring reserve or guard training, the paid leave provisions of section 115.07, F.S., (providing administrative leave to reservists and to members of the National Guard engaged in recurring short term training under federal provisions) do not specifically provide for OPS employees. Furthermore, agencies are not authorized to use OPS funds for paid leave purposes. Consequently, all authorized leave for recurring reserve or guard training shall be without pay.

6. All OPS employees who are entitled to reinstatement under USERRA and/or who are subject to tracking for insurance eligibility under ACA must be placed on military LWOP to ensure proper administration of the afore-mentioned provisions. As previously stated, this will always entail the processing of a PAR.

7. Although USERRA provides that “full-time” OPS employees who are enrolled in state group health insurance at the time of the military LWOP request have the right to continue health insurance coverage for up to 24 months and may be required to pay no more than 102% of the full premium, the state group insurance program provides greater benefits that shall be applied to all employees on military leave, as described in the following:

   a. Reservists of any branch of the U.S. armed forces engaged in federal active duty qualify for **continuation of their existing health insurance coverage for the duration of their military LWOP** pursuant to section 250.341, F.S. and Rule 60P-2.012(8), F.A.C. Additionally, section 250.341, F.S., provides that the coverage shall be **at the same contribution level they paid prior to federal active duty**, notwithstanding Rule 60P-2.012(8), F.A.C. However, although the premium contribution provisions of section 250.341, F.S., only apply to Florida residents, the employer contribution shall be paid **regardless of Florida residency**, pursuant to DSGI Management Advisory 15-003 (REVISED) issued May 18, 2015. These employees shall be placed on **military leave without pay and without supplement**. (See People First system instructions in Part IV, Section 2.a., below.)

   Likewise, members of the Florida National Guard engaged in state active duty (are not covered by USERRA) qualify for **continuation of their existing health insurance coverage for the duration of their military LWOP and at the same contribution level** that the employee paid prior to state active duty pursuant to section 250.341, F.S. These employees shall also be placed on **military leave without pay and without supplement**. (See People First system instructions in Part IV, Section 2.a., below.)

   b. Reservists of any branch of the U.S. armed forces and members of the Florida National Guard engaged in recurring reserves/guard training **qualify for continuation of their existing health insurance coverage for the duration of their military LWOP** pursuant to Rule 60P-2.012(8), F.A.C. Additionally, they are entitled to **the same contribution level they paid prior to this training duty** for the first 30 days of leave pursuant to 20 CFR Part 1002.166 and for the duration of their military LWOP,
pursuant to DSGI Management Advisory 15-003 (REVISED) issued May 18, 2015. Therefore, reservists on recurring reserves/guard training shall also be placed on military leave without pay and without supplement. (See People First system instructions in Part IV, Section 2.b., below.)

c. Non-reservists engaged in federal active duty qualify for continuation of their existing health insurance coverage for the duration of their unpaid military leave and, notwithstanding Rule 60P-2.012(8), F.A.C., at the same contribution level they paid prior to federal active duty, pursuant to DSGI Management Advisory 15-003 (REVISED) issued May 18, 2015. Therefore, non-reservists shall also be placed on military leave without pay and without supplement. (See People First system instructions in Part IV, Section 2.c., below.)

d. Members of the National Guard called up by another state should be granted an unpaid leave of absence when operationally feasible, as a matter of SPS policy. As with any authorized leave granted for general purposes, they will qualify for continuation of their existing health insurance coverage for the duration of their authorized leave, pursuant to Rule 60P-2.012(2)(a), F.A.C. Notwithstanding the premium contribution provisions of Rule 60P-2.012(2)(a), F.A.C., the coverage will be at the same contribution level they paid prior to their authorized leave, pursuant to DSGI Management Advisory 15-003 (REVISED) issued May 18, 2015. Therefore, such reservists shall also be placed on military leave without pay and without supplement. (See People First system instructions in Part IV, Section 2.d., below.)

8. OPS Employees enrolled in the state’s Basic Term Life plan, optional life plan, or any of the state group supplemental plans may continue coverage, provided they continue to timely pay the full premium for any month they are not on the payroll. However, the employee may cancel coverage and reenroll upon returning to work, pursuant to Rule Chapter 60P, F.A.C.

9. Upon being called to active military service, it is recommended that agencies separate any OPS employee who does not currently meet the “full-time” definition based solely on SPS employment if the active military service will result in a prolonged or indeterminate period of absence. If such employees currently have health insurance coverage (due to aggregated service hours from multiple employers), continuation of coverage will be subject to COBRA.

10. The federal ACA provisions do not apply to the seasonal OPS employment category, so seasonal employees will not meet the full-time definition, notwithstanding how many hours the employee works per week during their appointment period. Whether or not the agency separates a seasonal OPS employee will depend on whether the military absence interferes with their seasonal work.

11. By state law, Board Members are public officials classified as OPS employees of the SPS. However, since it is not feasible for such persons to meet the full-time definition solely based on the intermittent compensable duties they perform in this role, this OPS employment category will not qualify for military leave as contemplated by section 115.09, F.S., even if other concurrent non-SPS employment makes them benefits eligible.

12. The military leave provisions addressed in this program guideline apply only to those OPS employees for whom there is a reasonable expectation at the time they depart for active military service that the reinstatement provisions of state law (applicable only to state active duty in the Florida National Guard), or the reinstatement provisions of federal law (USERRA) will apply. However, inasmuch as state active duty is usually of short duration whereas federal active duty can extend to several months or years, it is realistic to assume that circumstances for the employee or the agency could change during federal active duty, thus impacting the employee’s right to reinstatement. Consequently, the agency is responsible for periodically monitoring every
employee who has been placed on military leave for federal active duty and ensuring that correct and timely action is taken during or following military service, as provided by federal law. Agencies are urged to consult the USERRA law or contact the ESGR (www.ESGR.mil or 1-800-336-4590) if at any point during or after military service there is uncertainty regarding the agency’s obligation to reinstate an OPS employee under the federal provisions. Additionally, Florida employers may access http://www.esgr.mil/florida.

For a general overview of USERRA eligibility criteria for reinstatement, agencies may also reference the more detailed program guideline for salaried employees, entitled “Military Leave for Salaried Employees” (Section IV.C).

IV. ATTENDANCE AND LEAVE PROCEDURES FOR MILITARY LEAVE WITHOUT PAY

1. Eligibility Requirements

Upon receipt and inspection of the OPS employee’s request for military leave and/or official military orders, the agency must verify whether the employee is currently meeting the criteria for “full-time” as provided in section 110.123(2)(c)1. and 2., F.S.

Click on the “Benefits Eligibility Key Information” link under “Work Information Maintenance” and refer to the “Benefits Eligibility” indicator (Y or N). A “Y” (yes) indicates that the employee is currently meeting the criteria for state group health insurance eligibility and should be deemed eligible for military LWOP.

2. System Procedures and Personnel Action Requests (PARs)

a. RESERVISTS AND FLORIDA NATIONAL GUARD – ACTIVE MILITARY SERVICE

PAR Action Type: “LOA Without Pay”
PAR Action Reason: “Military Leave Without Pay Supplement”

Personnel File: A copy of the military orders (federal or state active duty) shall be maintained in the personnel file. The agency will dictate the method for collecting and placing such copy in the personnel file.

Timesheet: Not applicable, since OPS employees are on positive pay and only submit timesheets for hours worked. These employees will be serving full-time in federal or state active military service until released.

Impact: Use this PAR action type, even if the reservist is not currently enrolled in health insurance. For those who are enrolled in health insurance and wish to maintain coverage, the agency will need to voucher the state contribution toward the premium each calendar month. Additionally, the employee will need to make arrangements with the People First Service Center to timely pay the employee contribution for health insurance and any other pre-tax supplemental coverage the employee wishes to maintain. To maintain products or services offered through post-tax payroll deductions, the employee must make payment(s) directly to the company associated with the deduction.

Pursuant to state law (section 115.08(2), F.S.), an employee remains on military leave until whichever of the following actions occurs first:

- The employee returns to work immediately following discharge;
- The employee returns to work within 30 days following discharge; or
• The employee dies.

However, USERRA authorizes certain employees discharged from federal active duty (reservists and non-reservists) to take an extended period of time (beyond 30 days) before returning to work; based on the duration of their federal active military service. Please refer to the USERRA guideline to determine the amount of time allowed in relation to the employee’s request. The provisions of USERRA can be found on the Department of Labor’s website at http://www.dol.gov/compliance/laws/comp-userra.htm.

Additionally, state law addresses the timeframes for members of the Florida National Guard to return to work following state active duty. Reference section 250.482, F.S., or consult the Florida Department of Military Affairs if the employee is returning after a sustained period of state active duty.

Based on the above, if the discharged OPS employee notifies the agency within the permissible timeframes for contacting the agency and reporting to work, instruct the employee on when and where to report, and reinstate them accordingly:

PAR Action Type: “Return from LOA Without Pay”
PAR Action Reason: “Return from LOA Without Pay”

b. RESERVES OR NATIONAL GUARD TRAINING

PAR Action Type: “LOA Without Pay”
PAR Action Reason: “Military Leave Without Pay Supplement”

Personnel File: Copies of recurring military training orders shall be maintained in the personnel file. The agency will dictate the method for collecting and placing copies in the personnel file.

Timesheet: OPS employees are on positive pay and will need to submit timesheets for any hours worked in the same work period in which they were in federally ordered training.

Impact: Use this PAR Action Type (See the “Policy” section in Part III above), even if the reservist is only on leave for a few days or weeks, and even if not currently enrolled in health insurance. For those who are enrolled in health insurance the agency will need to voucher the state contribution toward the premium if the employee’s absence encompasses a whole calendar month. Additionally the employee will need to make arrangements with the People First Service Center to timely pay the employee contribution for health insurance and any other pre-tax supplemental coverage the employee wishes to maintain. To maintain products or services offered through post-tax payroll deductions, the employee must make payment(s) directly to the company associated with the deduction.

To return such employees from leave status:

PAR Action Type: “Return from LOA Without Pay”
PAR Action Reason: “Return from LOA Without Pay”

c. NON-RESERVISTS – FEDERAL ACTIVE DUTY

PAR Action Type: “LOA Without Pay”
PAR Action Reason: “Military Leave Without Pay Supplement”

Personnel File: A copy of the military orders shall be maintained in the personnel file. The agency will dictate the method for collecting and placing such copy in the personnel file.
**Program Guidelines**

**Timesheet:** OPS employees are on positive pay and will need to submit timesheets for any hours worked in the same work period in which they were in federally ordered training.

**Impact:** Use this PAR Action Type (See the “Policy” section in Part III above), even if the non-reservist is not currently enrolled in health insurance. For those who are enrolled in health insurance and wish to maintain coverage, the agency will need to voucher the state contribution toward the premium each calendar month. Additionally, the employee will need to make arrangements with the People First Service Center to timely pay the employee contribution for health insurance and any other pre-tax supplemental coverage the employee wishes to maintain. To maintain products or services offered through post-tax payroll deductions, the employee must make payment(s) directly to the company associated with the deduction.

**d. NATIONAL GUARD MEMBERS – OTHER STATE CALL UPS**

There are no federal or state provisions that provide reinstatement rights or other benefits to employees who are members of another state’s National Guard and are called to military service by another state. However, to the extent that it is SPS practice to authorize leaves of absence to salaried employees in these circumstances, the same will apply to full-time OPS employees. In this case, the employee’s expected return to work will be in accordance with the terms under which the agency authorized the leave.

**PAR Action Type:** “LOA Without Pay”  
**PAR Action Reason:** “Military Leave Without Pay Supplement”

**Personnel File:** The agency will dictate the method for collecting and placing copies of all military orders in the personnel file.

**Timesheet:** Not applicable, since OPS employees are on positive pay and only submit timesheets for hours worked. These employees will be serving full-time in state active military service until released.

**Impact:** For those who are enrolled in health insurance and wish to maintain coverage, the agency will need to voucher the state contribution toward the premium each calendar month. Additionally, the employee will need to make arrangements with the People First Service Center to timely pay the employee contribution for health insurance and any other pre-tax supplemental coverage the employee wishes to maintain. To maintain products or services offered through post-tax payroll deductions, the employee must make payment(s) directly to the company associated with the deduction.

To return such employees from leave status (when compliant with terms of the leave and USERRA requirements):

**PAR Action Type:** “Return from LOA Without Pay”  
**PAR Action Reason:** “Return from LOA Without Pay”

**Note Regarding Separated OPS Employees:**

In the event an OPS employee who is entering active military service voluntarily separates or, due to not meeting the benefits eligibility criteria, is separated by the agency upon commencement of a period of active military service, the agency should retain a copy of any military orders or other documentation provided by the employee. In addition, the separation PAR should be notated to indicate the employee left for active military service, if this is known. Capturing this information in the personnel file and/or the PAR may assist the Division of State Group Insurance in the event that such OPS employee later returns to work with an employer under the state group insurance.
program, under circumstances where the employee can claim the period of active military service to establish insurance benefits eligibility. If upon completion of active military service, a separated OPS employee requests reinstatement under USERRA, agencies may contact the Department of Management Services, Division of Human Resource Management for guidance.

V. APPLICABLE STATUTORY AND RULE PROVISIONS

20 CFR Part 1002, Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services (Relevant Excerpts)

§1002.164 What health plan coverage must the employer provide for the employee under USERRA?

If the employee has coverage under a health plan in connection with his or her employment, the plan must permit the employee to elect to continue the coverage for a certain period of time as described below:

(a) When the employee is performing service in the uniformed services, he or she is entitled to continuing coverage for himself or herself (and dependents if the plan offers dependent coverage) under a health plan provided in connection with the employment. The plan must allow the employee to elect to continue coverage for a period of time that is the lesser of:

(1) The 24-month period beginning on the date on which the employee's absence for the purpose of performing service begins; or,

(2) The period beginning on the date on which the employee's absence for the purpose of performing service begins, and ending on the date on which he or she fails to return from service or apply for a position of employment as provided under sections 1002.115-123 of these regulations.

(b) USERRA does not require the employer to establish a health plan if there is no health plan coverage in connection with the employment, or, where there is a plan, to provide any particular type of coverage.

(c) USERRA does not require the employer to permit the employee to initiate new health plan coverage at the beginning of a period of service if he or she did not previously have such coverage.

§1002.166 How much must the employee pay in order to continue health plan coverage?

(a) If the employee performs service in the uniformed service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health plan coverage.

(b) If the employee performs service in the uniformed service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employer's share plus the employee's share, plus 2% for administrative costs.

Section 110.123, F.S., State group insurance program. (Relevant Excerpts)

(2)(c) “Full-time state employees” means employees of all branches or agencies of state government holding salaried positions who are paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 or more hours per week; employees paid from regular salary appropriations for 8 months’ employment, including university personnel on academic contracts; and employees paid from other-personal-services (OPS) funds as described in subparagraphs 1. and 2. The term includes all full-time employees of the state universities. The term does not include seasonal workers who are paid from OPS funds.
1. For persons hired before April 1, 2013, the term includes any person paid from OPS funds who:
   a. Has worked an average of at least 30 hours or more per week during the initial measurement period from April 1, 2013, through September 30, 2013; or
   b. Has worked an average of at least 30 hours or more per week during a subsequent measurement period.
2. For persons hired after April 1, 2013, the term includes any person paid from OPS funds who:
   a. Is reasonably expected to work an average of at least 30 hours or more per week; or
   b. Has worked an average of at least 30 hours or more per week during the person’s measurement period.

Section 110.131, F.S., Other-personal-services employment. (Relevant Excerpts)

(3) Unless specifically provided by law, other-personal-services employees are not eligible for any form of paid leave, paid holidays, a paid personal day, participation in state group insurance or retirement benefits, or any other state employee benefit. Other-personal-services employees may be included in that part of an agency’s recognition and reward program that recognizes and rewards employees who submit innovative ideas that increase productivity, eliminate or reduce state expenditures, improve operations, or generate additional revenue or who meet or exceed the agency’s established criteria for a project or goal.

(5) Beginning January 1, 2014, an other-personal-services (OPS) employee who has worked an average of at least 30 or more hours per week during the measurement period described in s. 110.123(13)(c) or (d), or who is reasonably expected to work an average of at least 30 or more hours per week following his or her employment, is eligible to participate in the state group insurance program as provided under s. 110.123.

Section 115.07, F.S., Officers and employees’ leaves of absence for reserve or guard training. (Relevant Excerpt)

(4) It is the intent of the Legislature that the state, its several counties, and its municipalities and political subdivisions shall grant leaves of absence for active or inactive training to all employees who are members of the United States Reserve Forces or the National Guard, to ensure the state and national security at all times through a strong armed force of qualified and mobilization-ready personnel.

Section 115.08, F.S., Definitions.

(1) The term “active military service” as used in this chapter shall signify active duty in the Florida defense force or federal service in training or on active duty with any branch of the Armed Forces or Reservists of the Armed Forces, the Florida National Guard, the Coast Guard of the United States, and service of all officers of the United States Public Health Service detailed by proper authority for duty with the Armed Forces, and shall include the period during which a person in military service is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) The term “period of active military service” as used in this chapter shall begin with the date of entering upon active military service, and shall terminate with death or a date 30 days immediately next succeeding the date of release or discharge from active military service, or upon return from active military service, whichever shall occur first.

Section 115.09, F.S., Leave to public officials for military service.

All officials of the state, the several counties of the state, and the municipalities or political subdivisions of the state, including district school and community college officers, which officials are also servicemembers in the National Guard or a reserve component of the Armed Forces of the
United States, shall be granted leave of absence from their respective offices and duties to perform active military service, the first 30 days of any such leave of absence to be with full pay.

Section 115.14, F.S., Employees.

All employees of the state, the several counties of the state, and the municipalities or political subdivisions of the state shall be granted leave of absence under the terms of this law; upon such leave of absence being granted said employee shall enjoy the same rights and privileges as are hereby granted to officials under this law, insofar as may be, including, without limitation, receiving full pay for the first 30 days. Notwithstanding the provisions of s. 115.09, the employing authority may supplement the military pay of its officials and employees who are reservists called to active military service after the first 30 days in an amount necessary to bring their total salary, inclusive of their base military pay, to the level earned at the time they were called to active military duty. The employing authority shall continue to provide all health insurance and other existing benefits to such officials and employees as required by the Uniformed Services Employment and Reemployment Rights Act, chapter 43 of Title 38 U.S.C.

Section 250.01, F.S., Definitions.

(21) “State active duty” means full-time duty in active military service of the State of Florida when ordered by the Governor or Adjutant General in accordance with s. 250.06, s. 250.10, or s. 250.28 to preserve the public peace, execute the laws of the state, suppress insurrection, repel invasion, enhance security and respond to terrorist threats or attacks, respond to an emergency as defined in s. 252.34 or to imminent danger of an emergency, enforce the law, carry out counter-drug operations, provide training, provide for the security of the rights or lives of the public, protect property, or conduct ceremonies. The term includes the duties of officers or enlisted personnel who are employed under the order of the Governor in recruiting; making tours of instruction; inspecting troops, armories, storehouses, campsites, rifle ranges, or military property; sitting on general or special courts-martial, boards of examination, courts of inquiry, or boards of officers; or making or assisting in physical examinations. The term shall also include the period during which a person in active military service is absent from duty as a result of illness, being wounded, being on leave, or other lawful cause.

Section 250.341, F.S., Cancellation of health insurance. (Relevant Excerpts)

(1) Any health insurance policy, certificate, or evidence of health coverage which provides coverage to a member of the Florida National Guard, or a member of any branch of the United States military reserves who is a resident of this state, called to active duty or state active duty, must:

a) Continue all coverages that were in effect for the person, or the person’s dependents covered by the same policy, at the premium in effect for all insured under the same contract, unless the employee or insured requests coverage changes that might alter the premium he or she was paying prior to such activation during the time he or she serves on active duty.

b) Reinstate the coverage for any such person who elects not to continue it while on active duty or state active duty, at the person’s request upon return from active duty or state active duty, without a waiting period or disqualification for any condition that existed at the time he or she was called to work with the same employer or within 60 days if the policy is an individual policy.

Section 250.48, F.S., Leaves of Absence.

Any officer or employee of the state, of any county or school district of the state, or of any municipality or political subdivision of the state who is a member of the Florida National Guard is entitled to leave of absence from his or her respective duties, without loss of pay, time, or efficiency rating, on all days during which the officer or employee is engaged in active state duty for a named event, declared disaster, or operation pursuant to s. 250.28 or s. 252.36. However, a leave of absence without loss of
pay granted under this section may not exceed 30 days for each emergency or disaster, as established by executive order.

Section 250.482, F.S., Troops ordered into state active service; not to be penalized by employers and postsecondary institutions. (Relevant Excerpts)

(1) If a member of the National Guard is ordered into state active duty pursuant to this chapter, a private or public employer, or an employing or appointing authority of this state, its counties, school districts, municipalities, political subdivisions, career centers, community colleges, or universities, may not discharge, reprimand, or in any other way penalize such member because of his or her absence by reason of state active duty.

(2)(a) Upon the completion of state active duty, a member of the National Guard shall promptly notify the employer of his or her intent to return to work.
(b) An employer is not required to allow a member of the National Guard to return to work under this section if:
1. The employer’s circumstances have so changed as to make employment impossible or unreasonable;
2. Employment would impose an undue hardship on the employer;
3. The employment from which the member of the National Guard leaves to serve in state active duty is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period; or
4. The employer had legally sufficient cause to terminate the member of the National Guard at the time he or she left for state active duty.

The employer has the burden of proving the impossibility or unreasonableness, undue hardship, the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period, or the legally sufficient cause to terminate the person at the time he or she left for state active duty.

(c) A member of the National Guard who returns to work after serving on state active duty is entitled to:
1. The seniority that the member had at his or her place of employment on the date of the commencement of his or her state active duty and any other rights and benefits that inure to the member as a result of such seniority; and
2. Any additional seniority that the member would have attained at his or her place of employment if he or she had remained continuously employed and the rights and benefits that inure to the member as a result of such seniority.
(d) A member of the National Guard who returns to work after serving on state active duty may not be discharged from such employment for a period of 1 year after the date the member returns to work, except for cause.

Rule 60L-33.002(3), F.A.C., General Principles.

Employees on military leave shall be treated as if they had been continuously employed for purposes of status, pay, and other benefits pursuant to the terms of the type of authorized leave they have been granted and in accordance with Title 38, United States Code, Chapter 4, the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Rule 60P-2.012, F.A.C., Employees Not on Payroll/Return to Payroll. ( Relevant Excerpts)

(2) Leave Without Pay.
(a) An insured employee granted leave without pay shall be eligible to continue coverage while on such leave provided the employee pays the full premium and notified the Department in accordance with subsection 60P-2.002(2), F.A.C.

(8) Military Leave. An insured employee granted military leave as defined under Personnel Chapter 60K-5, F.A.C.\(^1\) shall be eligible to continue enrollment in the Health Program while on such leave, provided the employee pays the full premium...

**Rule 60P-3.015 F.A.C., Employees Not on Payroll.** (Relevant Excerpts for the Life Plan)\(^2\)

(2) Leave without pay. An employee on approved leave without pay shall be eligible to continue coverage while on such leave provided the employee pays the full premium...

(8) Military leave. An insured employee granted military leave as defined under Personnel Chapter 60K-5, F.A.C.,\(^3\) shall be eligible to continue coverage while on such leave, provided the employee pays the full premium...

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\(^1\) Obsolete reference. Correct citation is Rule 60L-34.0062, F.A.C.  
\(^2\) Obsolete procedural requirements that pre-date the current process under People First are not cited.  
\(^3\) Obsolete reference. Correct citation is Rule 60L-34.0062, F.A.C.