

Paid Military Leave for Puerto Rico Employees

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1.8: USERRA and Other Laws

2.0: Paid Leave

The Laws of Puerto Rico Title 25 Section 2082 provides for paid military leave for employees of Puerto Rico and its political subdivisions, including public corporations, as follows:

All officials and employees of the Government of Puerto Rico or its political subdivisions, agencies, and public corporations, who are members of the Military Forces of Puerto Rico, shall be entitled to a military leave of absence of up to a maximum of thirty (30) days every year. Such leave shall enable them to be absent from their respective offices without the loss of pay, time or efficiency rating during any period in which they were rendering military services as part of their annual training or in a military school, when so ordered or authorized under the provisions of the laws of the United States of America or Puerto Rico. Provided, that when said Federal or Commonwealth Active Military Duty exceeds thirty (30) days, such member of the Military Forces of Puerto Rico may complete the period of annual training or military school, but such time shall be chargeable to any accrued leave with pay or leave without pay to which he is entitled.

Likewise, all officials and employees of the Government of Puerto Rico, or its political subdivisions, agencies and public corporations, who are members of the Military Forces of Puerto Rico and are called to Commonwealth active military duty by the Governor of Puerto Rico, due to any emergency situation, natural disaster or any man-made situation, shall be entitled to a military leave of absence with pay during the first month

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find approximately 1500 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other laws that are especially pertinent to those who serve our country, along with a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. In our "state laws" section, we have an article for each state about the state laws that grant paid military leave and other benefits, over and above USERRA, to employees of the state and (often) to employees of the state's political subdivisions.

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of each period of active duty. If the period of active duty were to exceed thirty (30) days, a military leave of absence without pay shall be authorized for the remainder of such period of active duty. Furthermore, during the period of active duty, the official or employee shall keep any fringe benefits granted by the employer and which he was enjoying at the time of activation. The aforementioned benefits shall be kept under the same terms and conditions that were in effect prior to the activation.³

Note: This statute, and all others from Puerto Rico, are translated from Spanish through an official Puerto Rico government office.

The United States federal law governing employment rights of servicemembers, the Uniform Services Employment and Reemployment Rights Act (USERRA) also applies in Puerto Rico.

Here is the same statute, but in its original Spanish:

Todos los funcionarios y empleados del Gobierno de Puerto Rico o sus subdivisiones políticas, agencias y corporaciones públicas, que sean miembros de las Fuerzas Militares de Puerto Rico, tendrán derecho a licencia militar hasta un máximo de treinta (30) días al año para ausentarse de sus respectivos cargos sin pérdida de paga, tiempo o graduación de eficiencia durante el período en el cual estuvieren prestando servicios militares como parte de su entrenamiento anual o en escuelas militares cuando así hubieren sido ordenados o autorizados en virtud de las disposiciones de las leyes de los Estados Unidos de América o las de Puerto Rico. Cuando dicho Servicio Militar Activo Federal o Estatal fuere en exceso de treinta (30) días, tal miembro de las Fuerzas Militares de Puerto Rico podrá completar el período de entrenamiento anual o escuela militar con cargo a cualesquiera vacaciones con sueldo acumuladas o licencia sin sueldo a las que tenga derecho.

De igual manera, todo funcionario y empleado del Gobierno de Puerto Rico o sus subdivisiones políticas, agencias y corporaciones públicas, que sea miembro de las Fuerzas Militares de Puerto Rico y que sea llamado por el Gobernador de Puerto Rico al Servicio Militar Activo Estatal por cualquier situación de emergencia, desastre natural o situaciones provocadas por el ser humano, tendrá derecho a licencia militar con paga durante el primer mes de cada período de activación. De extenderse el período de activación por un término mayor de treinta (30) días se concederá licencia militar sin paga por todo el período en que permanezca activo. Así también conservará, durante el período de activación, todos los beneficios marginales que habían sido concedidos por el patrono y que estuviere disfrutando al momento de la activación. Estos beneficios se retendrán bajo los mismos términos y condiciones existentes previo a dicha activación.⁴

³ P.R. LAWS ANN. tit. 25, § 2082 (2022).

⁴ P.R. LEYES AN. tit. 25, § 2082 (2022).

Meaning of “days”

This statute leaves ambiguity regarding how “days” are to be calculated. It is not clear whether weekends or other days an employee would otherwise have off should be counted towards the 30 day allowance for paid leave. There is also ambiguity in terms of how long a “day” is. Some states have decided that it means a calendar day, others have found it to mean a 24 hour period. As of December 2022, the Puerto Rico legislature has not addressed this, there have been no Puerto Rico court cases questioning it, and no Puerto Rico Attorney General Opinions providing clarification. This issue most often arises in cases involving firefighters or other employees who work 24 hour shifts, however it seems this has not yet come up in Puerto Rico.

Access the Laws of Puerto Rico on Your Own

We do our best to keep these state law articles up-to-date and provide the most relevant sections of the applicable statute for you to review. Nonetheless, we still recommend you consult the most recent version of the law to make sure nothing has changed from what we discussed in this article. You can find a public version of the entirety of the Laws of Puerto Rico for yourself online, for free through the Library of Congress, here: <https://guides.loc.gov/law-us-puerto-rico/legislative>. In order to access Title 25 Section 2080, once you are on that page, select “Laws of Puerto Rico (LexisNexis)”. If you are a lawyer with an existing LexisNexis account, you will have to log out in order to use this link. Once you open LexisNexis, type “25 LPRA 2082” into the search bar. 25 L.P.R.A. § 2080 Leaves of Absence for Government Employees should be the first result. Follow the same steps and the Spanish version should be the second result.

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ROA is more than a century old—it was established on 10/1/1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For almost a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

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If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Organization of America
1 Constitution Ave. NE
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⁵ Congress recently established the United States Space Force as the 8th uniformed service.

⁶ You can also contribute on-line at www.roa.org.