

# Frequently Asked Questions for State Employees in the Uniformed Services

This document briefly summarizes employment and reemployment rights and benefits of state classified employees who are absent from their state job to serve in the uniformed services. It is not possible to capture all the details and complexities of the law in this limited space. For a more comprehensive review of these rights and benefits, you may review the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Civil Service rules and regulations. If you are an exclusively-represented state employee, you should review your union's collective bargaining agreement.

Eligibility Emergency Active Duty Return to Work

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#### REFERENCES

Civil Service Rule 2-14, Rights of Employees Absent Due to Service in the Uniformed Services Civil Service Regulation 2.04, Military Leaves and Return to Work

#### **ELIGIBILITY**

1. Who is eligible for military leave?

A career classified employee who leaves work for service in the uniformed services is eligible. This military leave is unpaid. You will receive full seniority credit for your military leave if your cumulative, nonexempted military service is under 5 years, your discharge is not disqualifying, and your return is timely.

2. Who is eligible for military leave with pay?

There is no paid military leave, however, some career classified employees who are members of National Guard or reserve units ordered to training or emergency active duty may qualify for supplemental pay. You may use annual leave, banked leave, or compensatory time credits for military service to receive full pay.

3. Can my employer deny my request for military leave?

No. You only need to give notice of leave and do not need permission. You are required to provide documentation to verify the dates of military duty for leaves over 30 days.

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4. Is there a limit on the total amount of service in the uniformed services that I can perform and still retain reemployment rights with my department?

Yes. In general, you are entitled to a military leave for a cumulative period of up to five years and retain reemployment rights with the employer. However, exceptions exist to the five-year limit, including an exception for a declared national emergency. Current Civil Service policy is that all military activations are excluded from the 5-year limit because of the President's Proclamation of national emergency.

5. I am performing unpaid service (funeral honors duty, attending a special investigation hearing out of state, etc.). Can I take military leave for this and receive seniority benefits?

If you are under military orders and performing duties required as part of your military service, you are eligible for a military leave with seniority benefits.

#### TIMESHEETS AND MILITARY LEAVE HOURS

6. How do I code my time on my timesheet?

Hours absent for military leave should be coded on your timesheet as NPML (no pay military leave) hours for your regularly scheduled workday. State holidays during a short-term military training assignment (30 days or less) are coded as HOL hours. Employees on long-term active duty leaves (more than 30 days) should code time as NPML on a Monday-Friday schedule, even for state holidays.

7. Can I use my available leave balances for military leave?

You may use available annual, banked, or compensatory leave for your military leave only at the immediate beginning or end of any military leave. Using available leave accruals for your military leave allows you to keep both your state and military pay for those days. If you are on an extended military training, leave accruals cannot be spread out among different weeks to prolong your insurance coverage eligibility.

8. Can I use my available sick leave balances for military leave?

No.

9. Can I take time off before my military leave starts?

Yes. For short-term training leave, you may take off enough time to travel safely to your military duty and arrive fit for duty (i.e. eight hours of rest). For extended emergency active duty or extended training leave, you may take a reasonable amount of time off from your state job to put your affairs in order before beginning your duty (pre-decompression). Pre-decompression time off is unpaid (NPML), unless accrued annual, banked, or compensatory leave is used. The length of time allowed for pre-decompression is at your department's discretion based on operational needs.

10. Does the state pay me for travel time to my military destination?

No. You may leave your state job so that you have enough time to travel safely to your military duty and arrive fit for duty (i.e. eight hours of rest). This pre-duty time is unpaid and coded as NPML unless accrued annual, banked, or compensatory leave is used.

11. I work an Alternative Work Schedule (AWS). How is my time coded?

## **Emergency Active Duty:**

For employees working 80 hours per pay period, time entry is coded as NPML on a Monday through Friday schedule, even for state holidays. If an employee leaves in the middle of a pay period, NPML is used for as many days needed to complete 80 hours in a pay period.

For employees who work Alternative Work Schedules (AWS) that total greater than 80 hours per pay period, employees' time is reported as NPML for their normal work schedule and hours. If an employee leaves in the middle of a pay period, NPML is used for as many hours needed to complete their normal hours in the pay period. For supplemental pay calculation purposes, a "state workday" is considered an 8-hour workday regardless of what the employee may have been scheduled to work if not on military leave.

#### Training Duty:

Unless a qualifying paid leave type is used, employees' time is reported as NPML for their normal work schedule. State holidays during a short-term military training assignment (under 30-days) are coded as HOL\* hours.

12. Does my time on military leave count toward my eligibility for family medical leave?

Yes. All time on military leave for service in the uniformed services is included in calculating both the 12-month service requirement and the 1,250-hour work requirement for the Family Medical Leave Act.

13. Does my time on military leave count towards overtime eligible?

If you are a nonexclusively represented employee (NERE), NPML hours do not count towards overtime eligibility. In general, NPML hours do not count towards overtime eligibility for represented employees, however, you should refer to your collective bargaining agreement for further details of overtime eligibility.

14. Can I submit my military leave dates in SIGMA as a leave request?

No. NPML is not available in SIGMA's leave request form. You should notify your supervisor and human resources (HR) office outside of SIGMA of upcoming military duty.

#### TRAINING DUTY

15. I have been called to report to my unit for training. What do I need to do to request leave?

Employees only need to give notice of leave; they do not need permission. You should notify your supervisor and HR office as soon as possible. If you have official orders, employer memorandums, or drill schedules, please provide a copy to your HR office and <a href="MCSC-MilitaryLeave@michigan.gov">MCSC-MilitaryLeave@michigan.gov</a> to facilitate your military leave.

16. How many days of military leave for training is a state employee entitled to receive each year?

There is no limit on the number of unpaid days that an employee can use for military leave. However, limits exist for eligible supplemental pay and leave accruals. Supplemental pay and leave accruals for training duty is limited to 15 scheduled workdays (120 hours) each fiscal year. The MSPTA collective bargaining agreement limits supplemental pay to 20 scheduled workdays

(160 hours) of training duty each fiscal year. The AFSCME collective bargaining agreement limits supplemental pay to 15 scheduled workdays (120 hours) each calendar year.

17. What happens when I have exhausted the 15 days (120 hours) of supplemental pay per year?

Once you exhaust all 15 workdays (120 hours) in a year to receive supplemental pay and leave accruals, you may (1) use your available annual, banked, or compensatory leave balances, or (2) receive no payment from the state for the remainder of the service. If you use leave time, you can keep both the state and military pay for those days. If you do not have accrued leave time available or choose not to use leave, your time should be coded as NPML. You will not receive supplemental pay for these days but will receive seniority credit.

18. Do I receive annual and sick leave accruals for all training duty?

Accruals are credited only up to the first 15 days (120 hours) of eligible training duty under rule 2-14.2(a). Leave accruals are not issued until the employee submits documentation that eligible military service was performed. Documentation suitable to establish eligibility for leave accruals include only:

- Military Leave & Earnings Statement (LES) that includes the basic pay amount and the dates that the LES covered; or
- DD-214, Certificate of Release or Discharge from Active Duty; or
- Document on military letterhead signed by a military superior confirming that the employee performed military duty on specific dates.
- 19. If I do not use the total 15 (120 hours) training days per year, can I carry forward those hours for next year's allotment?

No.

20. What if my military training is for an extended period, such as 75 days for specialized training, and I have already used the 15 days (120 hours) per year?

You will be placed on an unpaid military leave. Upon your return to work, you will receive seniority credit for all 75 days once documentation that eligible military service was performed is submitted.

21. How do I code my time in SIGMA when I go on military leave for training?

Employees may use annual leave, banked leave, or compensatory time credits for military service to receive full pay. Otherwise, time is entered as NPML for the employee's regularly scheduled workday. NPML should not be used for partial days. Administrative leave or sick leave cannot to be used by employees absent for military leave. State holidays during a short-term military training assignment are coded as HOL\* hours. Employees on an extended military training cannot spread out leave accruals among different weeks to prolong insurance coverage eligibility.

22. Will the state pay for travel time to attend monthly training?

No. You may leave your state job so that you have enough time to travel safely to your military duty and arrive fit for duty (i.e., eight hours of rest). This pre-duty time is unpaid and coded as NPML unless accrued annual, banked, or compensatory leave is used.

23. Am I required to provide proof that I attended military training duty?

Documentation is not required for military leaves 30 days or less. However, if your military training exceeds 30 days, then you must provide documentation to verify the military duty. The

documentation listed below is acceptable to verify absence from regularly scheduled workdays for service in the uniformed services:

- Military Leave & Earnings Statement (LES) that includes the basic pay amount and the dates that the LES covered; or
- DD-214, Certificate of Release or Discharge from Active Duty; or
- Document on military letterhead signed by a military superior confirming that the employee performed military duty on specific dates.

Orders do not verify that the employee performed military service. Orders are an "intent" or a "notice" of possible military service. Orders can be cancelled, postponed, amended, or extended. It is the employee's responsibility to provide documentation, described above, that military duty was performed.

Documentation to receive supplemental pay and leave accruals, regardless of length of leave, are described in the Supplemental Pay and Leave Accruals sections of this document.

## **EMERGENCY ACTIVE DUTY**

24. What is emergency active duty?

Emergency active duty means active duty in a uniformed service in support of emergency operations during a national emergency declared by the president, state emergency declared by the governor, or war declared by the United States Congress.

25. I have been called to report to my unit for emergency active duty. What do I need to do?

Notify your supervisor and HR office as soon as possible. Unless precluded by military necessity, an employee must provide the employer prior oral or written notice before taking leave for military duty. Employees should provide as much notice as possible. Failure to provide notice could result in a denial of protections under USERRA.

If possible, provide military orders or an employer letter to your HR office and MCSC-MilitaryLeave@michigan.gov. When an employee submits military orders, it (1) provides notice to the employer of possible absence from work, and (2) informs the financial offices whether the military service qualifies for social security/Medicare tax exemption. The MCSC military leave unit will review your orders and email you additional information specific to your military leave.

26. Are there time limits for emergency active duty with supplemental pay?

No. Extended supplemental pay is currently available for all emergency active duty while under a declaration of national emergency. Refer to question #4 for additional information.

27. Do I receive annual and sick leave accruals for emergency active duty?

Annual and sick leave accruals are credited only for the first 30 consecutive calendar days of eligible emergency active duty under rule 2-14.2(b).

28. Will I be taken off payroll once I am activated?

No. Currently, state employees called to emergency active duty are under special pay provisions. Your time is coded as NPML and benefits continue. If you submit your LES, eligible supplemental pay will be processed in accordance with the <u>yearly processing schedule</u>. If you do not want insurance coverages for yourself or your dependents while you are on active duty, you must send

a written request to <a href="MCSC-EBD@michigan.gov">MCSC-EBD@michigan.gov</a> authorizing that action. This will end insurance coverages for yourself and any dependents. Please review eligibility for TRICARE coverage before cancelling your state health, dental, and/or vision insurances. Once an employee submits the request to stop benefits while on military leave, the benefits will remain stopped until the employee returns to work.

29. My original orders were extended. Who should I inform?

Notify your supervisor of the extended dates and submit your amended orders to your HR office and MCSC-MilitaryLeave@michigan.gov.

- 30. My unit is requiring me to complete my annual training immediately after my discharge from emergency active duty and before I return to my state position. Am I entitled to the supplemental pay for training duty?
  - No. You must return to work from your emergency active duty before you are eligible for supplemental pay for training duty.
- 31.I am taking terminal leave at the end of my military duty. Can I return to work while under military orders for terminal leave?

Yes. You may return to your state employment while on terminal leave. However, once you return to state employment, your entitlement to supplemental pay and decompression leave ends. Alternatively, you may continue your military leave throughout the terminal leave by recording NPML on your timesheet.

#### SUPPLEMENTAL PAY

#### 32. What is supplemental pay?

Supplemental pay is the difference, if any, between the gross base wage as a classified state employee and the gross military basic pay received for each otherwise regularly scheduled workday. For supplemental pay calculation purposes, a "state workday" is considered an 8-hour workday regardless of what the employee may have been scheduled to work if not on military leave.

33. Do I qualify for supplemental pay?

If you are employed in a career appointment and are a member of a reserve or national guard unit, you may be eligible for supplemental pay if you (a) are ordered to active or inactive duty training, (b) are ordered to emergency active duty by the governor or president, or (c) volunteer for emergency active duty. If you are a non-career employee, you are not eligible for supplemental pay.

34. What uniformed service is ineligible for supplemental pay and benefits?

You are not entitled to supplemental pay and benefits if you enlist in the uniformed services, attend basic training, or for any period of leave before or after military duty (decompression time). Additionally, supplemental pay for training duty is limited to 15 scheduled workdays (120 hours) each fiscal year. The MSPTA collective bargaining agreement limits supplemental pay to 20 scheduled workdays (160 hours) of training duty each fiscal year. The AFSCME collective bargaining agreement limits supplemental pay to 15 scheduled workdays (120 hours) each

calendar year. Employees on military leave for emergency active duty are eligible to receive supplemental pay for the duration of the emergency active duty.

35.If I code my time as No Pay Military Leave (NPML) for military training days, what documentation do I need to submit to receive supplemental pay?

To receive eligible supplemental pay, you must submit your military LES covering the NPML dates on your timesheet to your HR office and MCSC-MilitaryLeave@michigan.gov.

36. Once I submit my LES, how long until I receive my supplemental pay?

Supplemental pay for training duty is processed after the period end date on the LES and after the state pay period in which that date occurs. Exceptions to this process occur for state employees on full-time emergency active duty. Supplemental pay for full-time emergency active duty is processed according to the yearly processing schedule.

- 37. I am on third shift. Is my shift differential considered when calculating supplemental pay?
  - No. Supplemental pay is calculated using your state base pay rate only. Overtime, on-call, callback, and any other special pay premiums or allowances are not included in the employee's base rate of pay when computing a pay differential.
- 38. I earn more in the military than I do with the state. Am I entitled to any supplemental pay?
  - No. Differential is not paid for any period when the employee's gross pay in the uniformed service exceeds the employee's gross base wage in the classified service.
- 39. I volunteered for additional unpaid military duty (performing extra weekend drills for military retirement credit, special recruitment days at high schools and fairs, etc.). Will I be eligible to receive supplemental pay for these days?
  - No. If the military does not pay you, you are not eligible for supplemental pay. Unless you are under orders, NPML cannot be used for volunteering for unpaid military duty.
- 40. Am I entitled to holiday pay?

If a state holiday falls during a military leave, an employee who would otherwise be eligible to receive supplemental pay is eligible to receive full base wage for that holiday. Holidays falling in any period of leave during which the employee is ineligible for supplemental pay will not qualify for holiday pay.

41. Will I receive my longevity pay while on military leave?

Yes. You should receive your full annual longevity payment if any part of the year has been in military service.

42. Child support is being withheld from my pay. Will the state continue to withhold it?

If you are receiving supplemental pay, child support will continue to be withheld in accordance with the court order. The deduction may be prorated if the supplemental pay is insufficient to take the full amount. For long-term military leaves, you may contact the applicable third party (e.g., court, attorney, etc.) informing them of your military leave and request to waive or change these deductions. The paperwork should be submitted to the MI HR Service Center at <a href="MCSC-MIHR-Docs@michigan.gov">MCSC-MIHR-Docs@michigan.gov</a> (Ph: 877-766-6447).

43. What taxes are withheld from supplemental pay?

Federal, state, and local income taxes will be withheld from supplemental pay in accordance with your W-4 elections and the applicable withholding charts. When supplemental pay is processed, it appears in your pay warrant as a gross pay adjustment coded as (1) 10ML for inactive duty training or active duty less than 30 days, or (2) 11ML for active duty training or active duty expected to exceed 30 days. The pay codes of 10ML and 11ML are taxable wages. The 10ML pay code has social security and Medicare taxes (FICA) and federal unemployment taxes (FUTA) withheld. The 11ML pay code excludes FICA and FUTA.

## **LEAVE ACCRUALS**

44. Why did I not receive my full annual and sick leave accrual when I recorded NPML on my timesheet?

The NPML code used for military leave is not used to calculate leave accruals. For example, if you use 5 days (40 hours) of NPML in a pay period, you will only accrue 2.0 sick leave hours that pay period.

45. Do I receive annual and sick leave accruals while on military leave?

You can receive sick and annual leave accruals for the first 30 consecutive calendar days of emergency active duty and the first 15 days (120 hours) of training duty each fiscal year. MSPTA employees receive leave accruals for 20 scheduled workdays (160 hours) of training duty each fiscal year. AFSCME employees receive leave accruals for 15 scheduled workdays (120 hours) of training duty each calendar year. Leave accruals are not issued until you submit documentation that eligible military service was performed.

46. If I code my time as No Pay Military Leave (NPML) for military training days, what documentation do I need to submit to receive eligible annual and sick leave accruals?

Leave accruals are issued after you submit documentation that eligible military service was performed. Documentation suitable to establish eligibility for leave accruals include only:

- Military Leave & Earnings Statement (LES) that includes the basic pay amount and the dates that the LES covered; or
- DD-214, Certificate of Release or Discharge from Active Duty; or
- Document on military letterhead signed by a military superior confirming that the employee performed military duty on specific dates.
- 47. Once I submit my LES or other documentation, how long until I receive my annual and sick leave accruals?

Leave accruals for training duty are processed after the period end date on the LES and after the state pay period in which that date occurs.

48. Will I receive the October personal leave grant while on military leave?

Yes. An employee eligible for extended supplemental pay under rule 2-14.2(b) on October 1 receives the appropriate personal leave grant upon return to work.

# **INSURANCE COVERAGE**

49. Do my insurance coverages continue while I am on military leave for emergency active duty?

Yes. An employee on full-time emergency active duty receives continued health, dental, and vision benefits for the duration of the military orders, except during decompression time, by paying the employee's portion of the cost.

50. Do my insurance coverages continue while I am on military leave for long-term training?

USERRA entitles employees to continue health, dental, and vision insurances for the first 30 days of any military service. The 30-day counter begins on the first day that the employee is no longer entitled to supplemental pay. At the end of the 30 days, if that last day is in the middle of a pay period, insurances continue to the end of the pay period. After 30 days, you may continue coverage for up to 24 months by paying 102% of the employer's share plus the employee's share of the coverage's premium. The Civil Service Employee Benefits Division will send COBRA enrollment forms.

51. How are insurance premiums paid during my military leave?

If your leave is eligible for supplemental pay, the state will continue to pay the employer's share of elected insurance(s). The employee's share of benefit deductions will go into arrears while on leave and will be paid from eligible supplemental pay. If your leave is not eligible for supplemental pay, you must arrange for payment of 102% of the full premium cost to continue your coverage for up to two years. For further information on benefits deductions, contact the Employee Benefits Division at MCSC-EBD@michigan.gov.

52. Can I cancel my insurance coverages while I am on emergency active duty?

If you do not want insurance coverages for yourself and your dependents while you are on emergency active duty, you must send a written request to <a href="MCSC-EBD@michigan.gov">MCSC-EBD@michigan.gov</a> authorizing that action. You cannot cancel your coverage and keep only dependent (family) coverage. Please review eligibility for TRICARE coverage before cancelling your state health, dental, and/or vision insurances. Once an employee submits the request to stop benefits while on military leave, the benefits will remain stopped until the employee returns to work.

53. Can I change plans or coverage for my dependents while I am on military leave?

When a military leave begins, dependents can only continue coverage for plans they are currently enrolled in. Changes to coverage can be made during annual open enrollment periods or within 31 days of a qualifying life event.

54. Can I continue my long-term disability (LTD) coverage while on military leave?

No. Your LTD will be stopped once your military leave begins and will be reactivated when you return to work.

## **RETURN TO WORK**

55. I am being discharged from emergency active duty. Who do I need to contact regarding returning to work?

As soon as you know your discharge date, you should notify your supervisor and HR office of your discharge date and your estimated return to work date.

56. Do I have to return to work immediately after being discharged from emergency active duty?

No. You may take additional time off before returning to your state job for decompression. Decompression time is the period between the date you are discharged from active duty to the date you return to work in the classified service.

57. How much decompression time am I entitled to?

Decompression time is based on the number of days of military service. You must report to work, or provide notice to your HR office of your intention to return to work, within the limits below. If providing notice of your intention to return, your HR office will inform you of when you must report for work, which will be as soon as practicable.

- Less than 31 days Next regularly scheduled workday after travel plus 8 hours of rest
- 31 to 180 days Within 14 days after the end of your military service
- 181 or more days Within 6 months after the end of your military service
- 58. Can I receive supplemental pay during decompression time?

No. Decompression time is unpaid, unless you use accrued annual, banked, or compensatory leave. If you return to work after discharge using annual, banked leave, or compensatory time, your entitlement to any further decompression leave ends.

59.I am taking terminal leave at the end of my military duty. Can I return to work while under military orders for terminal leave?

Yes. You may return to your state employment while on terminal leave. However, once you return to state employment, your entitlement to supplemental pay and decompression leave ends. Alternatively, you may continue to your military leave throughout the terminal leave by recording NPML on your timesheet.

60. What documents are required to be reinstated to my position?

Documentation for return to work is required only for leaves over 30 days. The documentation listed below is acceptable to verify absence from regularly scheduled workdays for service in the uniformed services:

- Military Leave & Earnings Statement (LES) that includes the basic pay amount and the dates that the LES covered; or
- DD-214, Certificate of Release or Discharge from Active Duty; or
- Document on military letterhead signed by a military superior confirming that the employee performed military duty on specific dates.

Orders do not verify that the employee performed military service. Orders are an "intent" or a "notice" of possible military service. Orders can be cancelled, postponed, amended, or extended.

It is the employee's responsibility to provide documentation, described above, that military duty was performed.

61. Once I provide notice to my HR office of my intention to return to work, do I get my old position back?

Upon return from a period of duty in the uniformed services lasting 90 days or less, you will be returned to the same or similar position within your former classification. If the period of duty lasts more than 90 days, you may be placed in any position of equivalent status, seniority, and pay. However, layoffs and organizational changes during your leave may affect the position you are reinstated to.

62. If my agency has a layoff while I am on emergency active duty, can I be laid off?

Yes. If layoffs or other organizational changes occur during your leave, your position upon return will be determined by applying employment preference as if you had been working at the time, including any seniority credit due for military service. If this would result in your separation or demotion, this will affect your eligibility for and calculation of any supplemental pay.

63. I am currently laid off and have been called to emergency active duty. What are my rights?

If you would have been recalled while on emergency active duty, you are entitled to a working position upon release from duty if you have applied for reinstatement. You may qualify for retroactive supplemental pay starting from the date you would have been recalled.

64. I was injured during military duty and my doctor is recommending convalescence time. Can I continue my military leave?

Yes. You must present documentation establishing military confirmation that the injury or illness is duty connected. If you are no longer on active duty during your convalescence, you will no longer be eligible for supplemental pay, but you will receive seniority credit for this time when you return to work.

65. I plan to resign from state employment after my military duty and not return to work. Who should I inform of my resignation?

You should notify your supervisor and HR office of the effective date of your resignation. You will no longer be entitled to any seniority benefits under Regulation 2.04 § 4.D.1 since you did not return to work. All seniority-based benefits since the start of the military leave will be removed, including continuous service hours, seniority hours, longevity hours, and personal leave grants.

#### **PAY INCREASES**

66. Will I receive annual general wage increases?

If general wage increases for your classification are approved, those increases will be processed in the payroll system and reflected in your supplemental pay calculations.

67. Will I receive my step increases while on emergency military leave?

Yes. If you were in satisfactory status when your military leave began, you will receive step increases due while on leave.

68. I think I should qualify for reclassification from the 8 level to the 9 level while I am on emergency active duty. Will I receive my level increase?

No. Only step increases are continued while you are on emergency active duty. Reclassifications are a performance-based benefit and not given automatically. You must be performing the duties for the specified time required before a reclassification will be granted. However, once you return and complete the probationary period, your pay and seniority should reflect both the pre- and post-service time in the probationary period, plus the time served in the military.

#### RETIREMENT

69. Do I receive credit for retirement when on military leave?

If you return timely to work in the classified service, your retirement account may be updated to include eligible military leave time after you submit the appropriate documentation to the Office of Retirement Services (ORS).

70. What should I do to ensure that my retirement records reflect my military service? Employees returning from military leave should contact ORS at 800-381-5111.

71. Who can I contact if I have questions about retirement credit while on military leave?

Questions about state retirement credit should be directed to ORS at 800-381-5111. The retirement system is independent and separate from the MCSC and HR Offices. ORS will only discuss an employee's retirement program with the employee.

Visit the Michigan Civil Service Commission's <u>military leave</u> website for additional information on military leave processing. Questions can be directed to <u>MCSC-MilitaryLeave@michigan.gov</u>.