

OCERS Administrative Procedure (OAP) Military Service Credit Purchases

Authority

Gov. Code § 31649.5 in compliance with the Uniformed Services Employment Rights Act (USERRA),
38 U.S.C. § 4301 et. seq.:

Notwithstanding Section 31649, any member who resigned, or obtained a leave of absence, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and returned to county service within one year¹ after separation therefrom, under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant to Section 31461² at the time he or she resigned or received the leave of absence, together with regular interest³ thereon, and if, when he or she contributes, the military service is not a basis for present or future military retirement pay.

Process

1. When notified that a member has returned from a resignation or leave of absence to serve in the Armed Forces of the United States, OCERS will contact the member to determine whether the member wishes to enter into an agreement with OCERS to purchase all or part of the service credit the member would have earned as an OCERS member but for the military service. In the event that OCERS is not notified immediately following the return from the military leave, the member may submit a request to purchase service credit form any time prior to retirement for service credit missing as a result of the member's military service.
2. If the member wishes to purchase missing service credit, OCERS will confirm the dates of military service and confirm that the member reentered OCERS covered employment within one year of separation from military service. The member will be required to provide such proof of military service dates by providing OCERS one or more of the following documents:
 - a. Department of Defense 214 Certificate of Release or Discharge From Active Duty;
 - b. Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;
 - c. Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority;

¹ USERRA Allows for an extension of the return to service up to an additional year for recovery from injuries incurred or aggravated during military service. The additional recuperation time may be counted as service for the purpose of vesting and accrual of benefits. (20 C.F.R. § 1002.259 (b))

² Contributions are to be paid based on the rate of pay that the employee would have received but for the period of uniformed service. (20 C.F.R. § 1002.267)

³ An employee cannot be required or permitted to contribute an amount that exceeds the amount he or she would have been permitted or required to pay had he or she been continuously employed during the period of military service. Therefore, OCERS will not collect interest on contributions. (20 C.F.R. § 1002.263)

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- d. Certificate of completion from military training school;
 - e. Discharge certificate showing character of service; and
 - f. Copy of extracts from payroll documents showing periods of service.
3. OCERS will prepare a quote for purchase of all or any portion of the military service credit as requested by the member. Quotes will include the amount of contributions the member would have paid for the service, but for the resignation or leave of absence, based on the member's rate of pay he or she would have received but for the period of uniformed service and employee contribution rate, at the time of the commencement of the resignation or leave of absence.
 4. Payment options for the service credit purchase will be presented to the member with the cost estimate. Payment may be made by lump sum, rollover, periodic payment, or payroll deductions as allowed under service credit purchase rules generally applicable to OCERS.
 5. Upon initial agreement by the member, OCERS will prepare the service credit purchase contract which will include, but not be limited to, the amount of service credit to be purchased, the total amount to be paid, and the payment option requested by the member.
 6. In the event the member does not complete the service purchase contract, the member will receive credit for any service actually paid for under the contract.
 7. All service credit purchases for military service shall be completed prior to the member's retirement from OCERS covered employment.
 8. In the event that this procedure conflicts with statute or authoritative case law, the statute or case law will control.