

HR QUESTION ? of the month



Are there specific requirements for management of military leave requests?

Question: We have an employee called to complete military training in Israel. At this point, he only has 15 hours to finish, but I'm not sure what would happen should he be required to stay longer. Are there any rules that require specific management of this request? He will be leaving tomorrow, so hoping to get this squared away in time.

Answer: The federal Uniformed Services Employment and Reemployment Rights Act (USERRA) does not apply to service for another country's military. USERRA defines the uniformed services as the Army, Navy, Marine Corps, Air Force, Coast Guard, and the commissioned corps of the Public Health Service. The Army National Guard and Air National Guard qualify when performing active duty for training, inactive duty training, or full-time National Guard duty. See 38 U.S.C. 4303(16) at dol.gov. Thus, the employer does not have to grant time off to this employee to complete military training in Israel above and beyond usual PTO/vacation/personal leave time, unless the employer has a policy and practice of doing so. If the employee does not have accrued but unused paid time off, the employer may allow him unpaid time, but will be setting a precedent for other employees who need time off beyond their usual benefits entitlement (whether for another country's military or for any other reason).

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