

		<b>Policy Section:</b>	Institutional Support
<b>Policy Number:</b>	5521-11	<b>Policy Title:</b>	Military Leave
<b>Original Effective Date:</b>	12/1/04	<b>Department:</b>	Human Resources
<b>Date Last Revised:</b>	7/1/10		

**Purpose:**

The purpose of this policy is to outline the University’s implementation of military leaves of absence in compliance with the Uniformed Services Employment and Re-employment Rights Act (“USERRA”).

**Scope:**

Full- and part-time employees are eligible for Military Leave when on "qualified military service," which means service in "uniformed services" while on active or inactive duty, whether voluntarily or involuntarily called or activated, including training periods. Uniformed services include the Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service Commission Corps, and the reserve components of those services as well as training or service in the National Guard or Air National Guard.

Eligible employees are covered for cumulative Military Leave periods not to exceed 5 years to perform any form of military service, whether voluntarily or involuntarily, called or activated, such as being placed on active duty, for annual training, and for training weekends. Eligible employees are those employed in positions that have been of a recurrent nature with a reasonable expectation of continuation of a significant period of time. Occasional employees (those employed in temporary or seasonal positions), including adjuncts, are not eligible for Military Leave under USERRA.

**Procedure:**

1.0 Employees’ Responsibilities

To be covered by USERRA, employees are required to:

- 1.1 Provide their supervisor with written notice, as soon as possible after becoming aware that he/she is being called for military service;
- 1.2 Promptly provide a copy of orders to the office of Human Resources;
- 1.3 Receive an honorable or general discharge from the military upon completion of service; and
- 1.4 Return to work promptly. The time frame in which employees must return to work after discharge depends on the length of their military service, as follows:
  - 1.4.1 If the employees' military service was less than 31 days, they must report to work the first day after the completion of service.
  - 1.4.2 If their military service was more than 30 days but less than 181 days, they must submit a written request for reemployment within 14 days after the completion of service.
  - 1.4.3 If their military service was more than 180 days, they must submit a written request for reemployment within 90 days after the completion of service.

## 2.0 Pay for Military Leave

- 2.1 Employees on Military Leave for a period of less than one work week will receive pay for the full week of work provided they work during the regularly-scheduled portion of the work week which is not part of the leave period.
  - 2.1.1 The salary or wages due from the University for the week will be offset by the amount of the military pay received.
- 2.2 Military Leave in excess of a week is unpaid except where the employee elects to use available paid time off. (See Policies 5521-06, Paid Time Off for Staff and 5506-04 Faculty Leave). Employees must notify their Supervisor of this election.
- 2.3 The Supervisor must insure that Military Leave, paid or unpaid, is properly noted on the Department's Time and Attendance Sheet for the entire period of leave.

## 3.0 University's Responsibilities

Provided that the employee satisfies his/her obligations as indicated in Section 1.0 above, the following rights and protections will be provided by the University:

### 3.1 Reemployment

Reemployment will be provided to employees returning from military service as follows:

- 3.1.1 An employee whose military service lasted between 1 day and 90 days will be promptly reemployed in the following order of priority:
  - 3.1.1.1 In the job the employee would have attained had the employee remained continuously employed so long as the employee is qualified for the job, or can become qualified after reasonable training efforts by the University; or,
  - 3.1.1.2 If the employee cannot become qualified for the position he/she would have attained had he/she remained continuously employed, he/she will be reinstated to his/her pre-service position so long as the he/she is qualified for the job or could become qualified after reasonable training efforts by the University to; or
  - 3.1.1.3 If the employee cannot be made qualified for either position as per 3.1.1.1 and 3.1.1.2, above, he/she will be employed in any other position, which is the nearest approximation of that for which the person is qualified, with full seniority.
- 3.1.2 An employee whose military services lasted more than 91 days will be promptly reemployed in the following order of priority:
  - 3.1.2.1 In the job the person would have attained had the person remained continuously employed, or a position of equivalent seniority, status, and pay so long as the person is qualified for the job, or can become qualified after reasonable efforts by the employer to qualify the person; or,
  - 3.1.2.2 If the employee cannot become qualified for the position he/she would have attained had he/she remained continuously employed, the employee will be reinstated to the employee's pre-service position so long as the person is qualified for the job or could become qualified after reasonable efforts by the employer; or
  - 3.1.2.3 If the employee cannot become qualified for the position as per 3.1.2.1 and 3.1.2.2 above, he/she will be reinstated to any other position which is the nearest approximation of the position the person would have held for which the person is qualified, with full seniority.
- 3.1.3 Should the employee incur a disability during military service, the following reemployment process will be followed:

- 3.1.3.1 The University will make a reasonable effort to accommodate the person's disability so that he/she can perform the position that he/she would have attained if he/she had remained continuously employed.
- 3.1.3.2 If, despite reasonable accommodation and training efforts, the person, due to his or her disability, is not qualified for the position that he/she would have attained if he/she had remained continuously employed, he/she must be reemployed in a position of equivalent seniority, status, and pay, so long as he/she is qualified to perform the duties of the position, or could become qualified to perform them with reasonable efforts by the University to provide training.
- 3.1.3.3 If the person does not become qualified for the position as described in 3.1.3.1 or 3.1.3.2 above, the person must be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the above-referenced positions in terms of seniority, status and pay.

### 3.2 Seniority-Related Benefits

Upon return from leave, all seniority and seniority-based rights and benefits, such as 403(b) and vacation accrual, will be reinstated as if the employee had remained continuously employed.

- 3.2.1 Upon return, employees may catch up on their 403(b) contributions by contributing the amount that they could have contributed had they remained actively employed during their period of military service. Upon making such contributions, the University will contribute matching funds to the extent required under the Plan guidelines in effect at that time.
- 3.2.2 Employees must make these contributions within five years of their return from military service or within a period equal to three times their period of military service, whichever is shorter.
- 3.2.3 To determine the amount of additional contributions, consideration will be given to what the employees' compensation would have been during the period of military leave had they been actively employed during that period.

### 3.3 Continuation of Medical, Dental and Flexible Spending Account Benefits

- 3.3.1 The University will continue to provide medical, dental and flexible spending account benefits (as elected) to the employee and his/her eligible dependents during periods of paid leave in the same manner as during active employment.
- 3.3.2 When military service is up to 30 days and all or part of the leave is unpaid, the University will continue the employee's enrollment in medical, dental and flexible spending account benefits (as elected), provided the employee had arranged for payment of his/her premium contributions applicable to the period of unpaid leave. Such arrangements must be made with the Department of Human Resources prior to the leave.
- 3.3.3 When military service exceeds 31 days, (or when military service is less than one month but the employee fails to arrange for repayment of his/her premium contributions applicable to the period of unpaid leave), enrollment in medical, dental and flexible spending account benefits (as elected) will terminate. The employee will be eligible to continue these benefits under COBRA provisions.

## 4.0 Leave Conditions

- 4.1 When it is foreseeable that the duration of Military Leave will be more than one month, the employee:
  - 4.1.1 is required to provide his/her supervisor with keys, access to data, files, offices, and materials, etc., and list of duties and information necessary for proper continuation or reassignment of duties.
  - 4.1.2 should remove any personal items from his/her work area prior to the leave.
- 4.2 During the leave, the supervisor is to insure that the employee's absence is properly noted on the Department's Time and Attendance sheets.

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President's Cabinet Representative

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Date