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Applies to: Faculty and staff

### **Policy**

Issued: 04/25/1994

Revised: 06/17/2002

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Faculty and staff are eligible for military leave benefits and reemployment rights in accordance with state and federal law.

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## **POLICY GUIDELINES**

### **I. Definitions**

Allowances - monies provided for specific needs, such as food or housing, in addition to an individual's basic military pay.

Calendar year - the year beginning on the first day of January and ending on the last day of December.

Employee benefits - any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary) that accrues by reason of an employment contract or agreement, or an employee policy, plan, or practice. This includes rights and benefits under a pension plan, health plan insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacation, and opportunity to select work hours or location employment.

Month - 22 eight-hour workdays or 176 hours within one calendar year.

Presidential or Congressional order - calls to active duty issued by the President or Congress normally associated with a national military action (e.g., Desert Storm, Bosnia, Kosovo, or the War on Terrorism).

Regular call-up - calls to active duty issued by the Governor, National Guard, or Department of Defense normally associated with a state or federal requirement for training or active duty for short periods of time. Examples include summer or weekend training, professional development, unit deployment, snowstorms, or flood duty.

Uniformed services - the U.S. Armed Services, including the Coast Guard, the Ohio organized militia, the commissioned corps of the Public Health Service, and the National Guard (when engaged in active duty for training, inactive duty for training, or full-time National Guard duty).

### **II. Provisions**

- A. Faculty and staff, full-time or part-time, at any full time equivalency (FTE), who are members of the uniformed services, are entitled to military leave of absence with pay for up to one month each calendar year, and without pay for up to a maximum of five years.
- B. Military leave does not affect vacation or sick leave balances.

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- C. Military leave is granted for both voluntary and mandatory service.
- D. Pay and medical benefits vary depending on whether the service is a result of a regular call-up or a call-up due to Presidential or Congressional Order.
- E. An employee may be absent from University employment pursuant to this rule for a cumulative amount of time not to exceed five years unless special orders are issued by the President of the United States or the United States Department of Defense.
- F. An employee who requests a military leave of absence must provide reasonable advance written notice of such active military service to the University. Such advance notice is not required where it is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable.

### **III. Military Leave Due to Regular Call-Up**

- A. Regular call-up for one month or less
  - 1. For military call-ups of one month or less, individuals are entitled to receive leave with pay for up to 22 days or 176 hours for each calendar year.
  - 2. Medical, dental, vision, and retirement benefits are continued for the individual and covered dependents as if the individual was not on leave.
- B. Regular call-up exceeding one month
  - 1. For military call-ups that exceed one month, individuals are entitled to receive leave without pay for up to a maximum of five years.
  - 2. Individuals on active duty may elect to use the military health care system or may continue existing University medical, dental, and vision coverage for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Upon return from military leave, individuals are entitled to reenroll in University health benefits without any waiting period.
  - 3. Retirement contributions to state systems are not required during the period of military leave. Up to ten years of free service credit can be granted if the individual left University employment for active duty (after a minimum of one year of contributing to a state retirement system) and returned to contributing status within two years after discharge.

### **IV. Military Leave Due to Presidential or Congressional Order**

- A. For call-ups of one month or less

Pay and benefit entitlements are the same as for a regular call-up.

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B. For call-ups that exceed one month

1. The University will provide the individual a monthly pay differential equal to the difference between the current gross monthly wage or salary and the sum of the gross military pay and allowances.
2. Individuals on active duty may elect to use the military health care system or may continue existing University medical, dental, and vision coverage for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Upon return from military leave, individuals are entitled to reenroll in University health benefits without any waiting period.
3. Retirement contributions are the same as stated in this policy.

**V. Reemployment Rights**

- A. The intent of the [Uniformed Services Employment and Reemployment Rights Act](#) of 1994 is to encourage non-career military service by eliminating or minimizing the disadvantages to civilian careers and employment that occur as a result of military call-ups. The thrust of the law is to restore the individual to the previous employment position with all seniority, status, pay, and benefits that would have accrued if the individual had not left for military service.
- B. To be eligible for reemployment rights, individuals must have been issued a discharge under honorable conditions.
- C. Discrimination or retaliation for participation is prohibited, whether an individual volunteers or is ordered to active military service.
- D. An individual's right to reemployment includes restoration of the benefits that were elected by the employee and his or her dependents at the time military service began, as well as to benefits that began during the leave for which the individual would reasonably have become eligible. For example, if vacation accrual increases from two weeks to three weeks upon completion of five years of service, then a person who works for two years, serves two years on active duty, and then returns, would be entitled to three weeks of annual leave one year after reemployment.
- E. The University is not required to reemploy a person after military leave if:
  1. The University's circumstances have so changed as to make such reemployment impossible or unreasonable;
  2. Such reemployment would impose an undue hardship upon the University; or
  3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurring period.

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## PROCEDURE

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### I. Return from Duty

- A. A veteran returning from military service is entitled to be restored to his or her former position or to one of similar seniority, pay, and status, if he or she is qualified to perform the duties of the former position. Positions for which a serviceperson will have rights are based on the length of the person's intervening uniformed service. There is a condition in most instances that the person is qualified for the position in which he or she will be reemployed. Under the law, a person is "qualified" for a position if he or she has the ability to perform the essential tasks of the position. The [Uniformed Services Employment and Reemployment Rights Act](#) has left "essential" tasks undefined since this requirement is somewhat akin to those of the [Americans with Disabilities Act \(ADA\)](#) essential job functions.
1. Uniformed service of less than 91 days.  
A person whose uniformed service was fewer than 91 days is to be promptly reemployed in the position that he or she left.
  2. Uniformed service for more than 90 days.  
If the intervening uniformed service was for more than 90 days, the returning employee will have the same reemployment rights as persons with a shorter term of uniformed service, except that he or she will have the additional option of employment in a position of like seniority, pay, and status.
- B. The [Uniformed Services Employment and Reemployment Rights Act](#) does not create a system of seniority but simply recognizes any existing seniority systems that have been established by contract, custom, or practice. For example, with one employer there can be a system of seniority for general employees but not for managers and executives. Only the former group would be able to enforce these rights.
- C. The employer is obligated to make *reasonable* efforts to update the skills of an employee who is not initially qualified for the position to which he or she is entitled, unless such efforts would create an undue hardship. Congress intends the employer provide refresher training and any training the employee would have received if he or she had remained on the job, before deciding on an employee's qualifications.

### II. Employee Responsibilities

- A. Provide as much advance notice of the absence as possible.
- B. Provide copies of official orders or other official documentation.

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- C. Submit an [Application for Leave](#) form.
- D. Select pay and benefit options desired during absence.
- E. Retain copies of all submitted documents.
- F. Apply for reemployment in a timely manner.
  - 1. For service of less than one month, the employee must apply for reinstatement no later than the beginning of the first full regularly scheduled work period that starts at least eight hours after return from military service.
  - 2. For service of more than one month but fewer than six months, the employee must apply for reinstatement not later than fourteen days after release from active service.
  - 3. For service of more than six months, the employee must apply for reinstatement not later than ninety days after release from active service. Failure to provide notice does not mean that an individual forfeits his or her rights. Rather, it subjects the individual to the employer's conduct rules, established policies, and general practices.
  - 4. The individual must provide documentation of a discharge, or release from duty, under honorable conditions.

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## RESOURCES

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### For consultation:

- Office of Human Resources, [Veterans Affairs](#) 614-292-7047
- Office of Human Resources, [Organization and Human Resource Consulting](#) 614-292-2800, [ohrc@hr.osu.edu](mailto:ohrc@hr.osu.edu)

### For forms:

- Application for Leave form [hr.osu.edu/hrpubs/forms.htm](http://hr.osu.edu/hrpubs/forms.htm)

### For more information:

- Uniformed Services Employment and Reemployment Rights Act [www.dol.gov/elaws/userra0.htm](http://www.dol.gov/elaws/userra0.htm)
- Ohio State ADA Web site [ada.osu.edu/](http://ada.osu.edu/)
- Frequently Asked Questions Regarding Military Leave [hr.osu.edu/hrpubs/pubmenu.htm](http://hr.osu.edu/hrpubs/pubmenu.htm)
- Benefit Fact Sheet – Active Duty Military Leave Benefit Continuation [hr.osu.edu/hrpubs/pubmenu.htm](http://hr.osu.edu/hrpubs/pubmenu.htm)