

MILITARY LEAVE PROCEDURE

PURPOSE:

To outline West Virginia University procedures regarding entitlement and responsibilities relative to military leave as defined under federal law [the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) US Code, Title 38, Chapter 43, Sections 4301-4333, Public Law 103-353], West Virginia state law [WV Code §15-1F-1], PEIA Handbook, WVU Human Resources Military Leave Policies and Procedures; Governor Wise's Executive Order 19-01.

ELIGIBILITY:

Members of the uniformed services (Armed Forces, National Guard, Reserves, Public Health Service, or other categories of persons designated by the President or other properly designated federal authority in time of war or emergency) when engaged in voluntary or involuntary, active or inactive duty by order of a competent authority.

DISCRIMINATION AND RETALIATION PROHIBITION:

Discrimination and/or retaliation on the basis of membership in the uniformed services is prohibited. Actions based on membership will be deemed discriminatory unless they were otherwise inevitable.

TO REQUEST MILITARY LEAVE:

Unless militarily restricted, the employee is required to provide advanced verbal or written notice of the request for military leave and a copy of the orders to their dean or director and a copy to Human Resources. The employee is to provide as much notice as is possible to facilitate operational coverage.

If it is operationally unreasonable to release the employee from work for the designated time and duration, contact may be made with the employee's commanding officer to request reconsideration of the orders. Final determination will be at the discretion of the uniformed services.

MILITARY REPORTING:

A copy of the original orders which summon the employee to duty must be attached to the monthly leave report and submitted to the Department of Human Resources.

EMPLOYMENT RIGHTS:

As follows, any such member employee will be provided entitlements consistent with their existing employment status, as though continuous:

1. Wage maintenance - Any employee on military leave, under the following provisions, will continue to receive normal salary or compensation for the time as indicated below, regardless of whether or not the employee receives other compensation from federal sources during the same period.
2. Payment of wages for up to thirty (30) working days in any calendar year to any such employee absent from the worksite for time in which he/she is engaged in drills, parades, field service or active service to the State.
3. Payment of wages for up to thirty (30) working days per single call to active duty for any such employee away from the worksite under provisions of the Military Selective Service Act or any other time in which the President or other properly designated federal authority of the United States may order him/her to active service.
4. The number of unused days from the first 30 working days may be added to the additional 30 working days, up to a maximum of 60 working days for a single call to active duty. However, none of the unused days from the first 30 days may be carried over and used in the next calendar year.

In order to maintain additional salary continuation, employees are entitled, but not required, to charge annual leave or compensatory time off (CTO) accrued.

Seniority credit relative to others for:

- employment selection
- overtime rotation
- annual leave scheduling
- layoff
- recall

Years of service credit for:

- annual leave accrual rate
- longevity increments
- State Teacher's Retirement System
- PEIA Rates

Health plans:

- Insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.
- accident insurance
- disability insurance
- life insurance
- health insurance (single and family) - employee must pay his/her contributions to continue coverage while on leave of absence

Compensation adjustments, if any, as if no disruption in service occurred.

Selection of work hours or location

Insurance coverage or awards

Supplemental unemployment compensation benefits

REEMPLOYMENT ELIGIBILITY, RIGHTS AND RESPONSIBILITIES:

Any such member occupying a regular position at the time military leave began, is entitled to return to the same job, or one of similar seniority, status and pay for which they are qualified. In order to preserve reemployment protection the employee must:

1. properly provide prior notice of service to the University;
2. have a cumulative military service of less than five (5) years;
3. properly report for reemployment:

for military leave less than 31 days;

- the first full regularly scheduled working day following the end of the military leave, including eight hours of travel time; or as soon as possible thereafter if not within the employee's control.
- for a uniformed service medical exam: processing required as above. for military leave of 31-180 days:
- within fourteen (14) days of the end of the military leave; or as soon as possible thereafter if not within the employee's control. for military leave more than 181 days:
- within ninety (90) days of the end of the military leave; or as soon as possible thereafter if not within the employee's control.

If the employee is hospitalized or convalescing from an illness or injury occurring or aggravated in service, they are expected to report for reemployment as outlined above following recovery; protection applies to a recovery period of less than two (2) years. All employees must provide proper documentation, as prescribed by the Secretary of Defense, for reemployment processing.

REEMPLOYMENT PROTECTION: An employee may be discharged for cause only:

- during the 180 days after reemployment, if the military service was for 31-180 days duration; or
- during the year following reemployment, if the military leave was more than 180 days.

ADDITIONAL INFORMATION:

Questions regarding military leave or absence should be directed to the Employee Relations Unit in the Department of Human Resources at 293-5700 x5. Specific questions regarding effect and payment for reinstatement of benefits should be directed to the Benefits Unit in the Department of Human Resources at 293-5700 x4.

EFFECTIVE DATE: August 1, 1999; Revised April10, 2003

WVU POLICY: http://www.wvu.edu/~adminfin/policies/hr_policies/WVU-HR-29.html