

**Texas Woman's University
University Regulation and Procedure**

Regulation and Procedure Name: Military Leave

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Number: URP: 05.550**

Policy Owner: Finance and Administration

POLICY STATEMENT

Texas Woman's University is committed to protecting the job rights of employees absent on military leave. In accordance with the Uniform Service Employment and Reemployment Rights Act ("USERRA") and applicable state laws it is the University's policy that no employee or prospective employee will be subjected to any form of discrimination on the basis of an individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. Furthermore, these protections are extended to any person who assisted in the enforcement of a protection afforded a returning service member under USERRA and/or applicable state laws.

APPLICABILITY

This policy is applicable to TWU Employees.

DEFINITIONS

None

REGULATION AND PROCEDURE

I. General Information

Regular benefits eligible employees are entitled to use leave to accommodate:

- A. Service in the uniformed services of the United States.
- B. Authorized training or active duty for the state's military forces and members of any reserve branch of the U.S. Armed Forces.
- C. Activation of the state's military forces by the Governor or the federal government.

- D. State employees participating in state or federally authorized urban search and rescue teams.
- E. Duty performed by intermittent disaster response personnel for the Public Health Service, and approved training to prepare for such service.
- F. Any other category of persons designated by the President in time of war or emergency.

II. Call to National or State Duty or Authorized Training for Duty

A state employee who is called to active duty or authorized training is entitled to a leave of absence of 15 days in each federal fiscal year (October 1 – September 30) without loss of pay or benefits. The 15 workdays need not be consecutive. In addition, these days are “working” days, not “calendar” days. After exhausting the 15 workdays of paid military leave, the employee may use accrued vacation or be placed in a leave without pay status (or combination of the two) for the remainder of the active duty period. An employee who does not use all 15 workdays of military leave in a federal fiscal year will be allowed to carry forward the unused portion of military leave to the next federal fiscal year, up to a maximum of 45 workdays to be carried forward.

III. Call to State Military Service Active Duty by the Governor

- A. A state employee called to state active duty as a member of the state military forces by the governor is entitled to receive paid emergency leave without loss of military leave or annual leave.
- B. An employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays without loss of military leave or vacation leave.

IV. Benefits While on Military Leave

- A. While on military leave the employee retains any accrued sick or vacation leave. If the employee is going to be out for an extended leave, they are not required to exhaust their accrued leave. The employee will continue to accrue state service credit for retirement; longevity pay, sick leave and annual leave during this period of active duty as if the returning service member had been continuously employed.

- B. The employee may use any accrued annual leave, compensatory time, or overtime leave to maintain benefits for the employee or the employee's dependents while on military leave.

V. Differential Pay

If state employees are called to active duty in support of the Homeland Security mission under US Code Title 10 (US Armed Forces) or Title 32 (National Guard) and their military pay is less than their gross state salary, TWU will grant sufficient emergency leave to provide a pay differential. The combination of gross military pay and emergency leave pay may not exceed the employee's actual TWU gross pay.

VI. Procedures for Military Leave

- A. The employee will provide his or her immediate supervisor with advance notice, (either verbal or written) that the employee will be engaging in military service. All National Guard and Reserve members are encouraged to provide a copy of orders, the annual drill schedule, or other type of documentation to their supervisor as soon as available and, if possible, before the commencement of military duty.
- B. Employees are requested to provide such notice as soon as they have knowledge of upcoming military service. Failure to provide notice could result in a denial of the protection of USERRA.
- C. The employee should meet with both benefits and payroll department representatives to discuss Family Medical Leave Act exigency leave, continuation of benefits, differential pay and the paid or unpaid status of their military leave.
- D. Upon their release from active duty, the employee must make notification of reinstatement to Human Resources within the application period set forth below.
- E. Upon request the employee must provide documentation of military service proving eligibility for restoration of employment.

VII. Restoration of Employment

- A. To be eligible for restoration of employment at the conclusion of military service, the employee's separation from the service cannot be for other than honorable conditions and no later than five years after induction, voluntary

enlistment, or call to duty unless qualified under exceptions found in USERRA regulations.

B. The period an individual has to make application for reemployment or report back to work after military service is based on time spent on military duty. USERRA provides that a returning employee “be allowed sufficient time to return to their residence and be rested before they are to perform their work.”

C. The time lines for reporting for work or applying for restoration of employment are:

1. For a period of service of less than 31 days, at the beginning of the first full shift on the first full day following the completion of service, the employee must report for work provided the employee has a period of eight hours to rest following safe transportation to the person’s residence.

2. If the individual served between 31 and 180 days, he or she must make an oral or written application for reemployment no more than 14 days after completing service. If it is impossible or unreasonable for the employee to apply within 14 days through no fault of the employee, he or she must submit the request not later than the “next full calendar day after it becomes possible to do so”.

3. If the individual served more than 180 days, he or she must make an oral or written application for reemployment no more than 90 days after completing service.

4. Service members convalescing from injuries received during service or training may have up to two years from the date of completion of service to return to their jobs or apply for reemployment.

D. There are exceptions to the five year limit, which may increase the maximum leave time allowed. These exceptions include the time for the initial period of obligated service; the time for necessary training; and the time an employee is ordered to stay in active duty under certain federal laws.

VIII. Job or Position after Military Leave of Absence

- A. Except with respect to persons whose disability occurred in or was aggravated by military service, the position into which an employee will be reinstated is determined by priority, based on the length of military service.
1. Service of 1 to 90 days: The employee will be reinstated in the job the person would have held had he or she remained continuously employed.
 2. Service of 91 or more days: (a) same as for service of 1 to 90 days, or a position of similar seniority, status, and pay, so long as he or she is qualified, or (b) if the person cannot become qualified, in the position the person was employed on the date of the commencement of the military service or which nearly approximates that position.
- B. If after reasonable training efforts by the university, the employee cannot become qualified for either position described above (other than for a disability incurred in or aggravated by the military service) even after reasonable employer efforts, the person is to be reemployed in a position that is the nearest approximation to the positions described above (in that order) which the person is able to perform, with full seniority.

REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

REFERENCES

Section 431.005, Government Code

FORMS AND TOOLS

None

Publication Date:

Next Review: