



4.7.2 Uniformed Services Employment and Re-employment Rights

Chapter 4 - General Personnel	Original Effective Date: January 2003
Section: 4.7 Work and Leave Administration	Date Last Reviewed: August 2018
Responsible Entity: Vice President and Chief Human Resources Officer	Date Last Revised: August 2018

I. Purpose

To establish leave practices and procedures for uniformed services employees and re-employment rights at UT Health San Antonio.

II. Scope

This policy applies to all employees of UT Health San Antonio that are eligible per the established requirements of the Uniformed Services Employment and Re-employment Rights Act.

III. Policy

A. General Policy

The Uniformed Services Employment and Re-employment Rights Act (USERRA) protects and gives reemployment rights to UT Health San Antonio (UTHSA) employees returning from military service.

Employees may be reinstated after leave that is protected under USERRA or Texas state law for duties performed on both a voluntary and involuntary basis, including:

1. Active duty (including Reserve and Guard members who have been called up)
2. Active duty for training
3. Initial active duty for training
4. Inactive duty training
5. Full-time National Guard duty
6. State or federally authorized urban search and rescue

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7. Absence from work for an examination to determine an individual's fitness for any of the above types of duty.

When returning from military service, the employee is entitled to be restored to the same position that was held when ordered to active duty, so long as they have given advance notice to the institution of their military service or obligation and meet all eligibility and procedure requirements listed below.

Please see the Institutional Handbook of Operating Policies (IHOP) Policy [4.7.3 State Military Forces and Reserve Duty](#) for more information about going on military leave and procedures to follow.

B. Eligibility Requirements for Re-employment

The employee must meet the following criteria to establish eligibility for re-employment at UTHSA after military service:

1. The employee provided appropriate notice of military orders to their department and the Benefits department in the Office of Human Resources (ben-admin@uthscsa.edu) prior to their leave,
2. The employee was absent from work for a period of less than 5 years due to military service,
3. Employee completed military service under honorable conditions, and
4. The employee returned to work or applied for re-employment in a timely manner after completing military service (please see Return to Work & Re-Employment Deadlines below).

C. Return to Work and Re-employment Deadlines

Time frames for the employee to report back to work or apply for re-employment at UTHSA vary depending on the length of military service.

Time Away in Military Service	When the Employee Must Report to Work
30 days or less	Must report to the institution by the beginning of the first regularly scheduled work day occurring eight (8) hours after the employee returns home.
31 to 180 days	Must submit an application for reemployment to the institution no later than fourteen (14) days after completion of military service.

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181 days or more	Must submit an application for reemployment to the institution no later than ninety (90) days after completion of military service.
*NOTE: If the employee sustained a service-connected injury/illness, the deadline to re-apply to the institution is extended to two (2) years for those hospitalized or convalescing after completion of military service.	

D. Procedures for Re-employment after Military Leave

The employee must notify their department and the Benefits department in the Office of Human Resources (ben-admin@uthscsa.edu) of their expected return to work date within deadlines noted in the above chart.

If the employee fails to report to work or contact their supervisor or manager regarding re-employment within the appropriate time frame, their employment will be terminated.

Within 31 days of the employee returning from active military service, the employee must contact HR Benefits at ben-admin@uthscsa.edu to discuss reinstatement or continuation of benefits coverages and retirement.

If the employee needs special accommodations to return to work, the employee must notify their supervisor of their needs so that reasonable accommodations can be determined. The employee may also have rights under either Family Medical Leave Act (FMLA) or Americans with Disabilities Act (ADA) that should be discussed with their department. Please contact HR-LeaveAdmin@uthscsa.edu for more information on FMLA or ADA.

The department will work with Human Resources to determine eligibility, process their return from military leave, and aid with any additional Family Medical Leave Act (FMLA) or Americans with Disabilities Act (ADA) requests or needs.

E. Employment Status upon Return

Employees cannot waive their rights under USERRA. This means that they still hold the right to re-employment, benefits, etc., even if they chose to terminate employment with the Institution.

If eligible, the department will promptly re-employ employee in a position he/she would have attained if he/she had remained continuously employed, so long as he/she is qualified for the job or can become qualified after reasonable efforts.

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If the employee is not qualified for such a position, the employee will be re-employed in the position held before military service.

If the employee is not qualified for either position, the employee will be re-employed in any other position of lesser status and pay for which the employee is qualified.

When employees return from a military Leave Of Absence, they are entitled to receive immediately any pay increases (across the board, merit, etc.) that were given while they were on Leave Of Absence.

An employee returning from military service is protected from termination without cause according to the following schedule:

Length of Military Service	USERRA Protection from Termination
More than 181 days	1 year
More than 30 but less than 181 days	180 days
30 days or less	Not addressed by USERRA

F. Benefits

1. Insurance and Retirement Plans:

Within 31 days of the employee returning from active military service, they must contact HR benefits at ben-admin@uthscsa.edu to discuss reinstatement or continuation of benefits coverages and retirement.

2. State Service Months and Leave Accruals:

Employees must receive credit for state service months covering their time in the military. Upon their return to UTHSA, employees will have their service months updated by Office of Human Resources.

Any previously accrued leave balances will be made available to employees when they return from military service. During the time of military service, the employee will not accrue leave balances.

UTHSA may not require employees to use accrued vacation, annual, or any similar leave to cover any part of the time the employees are absent due to military service.

IV. Definitions

There are no defined terms used in this Policy.

V. Related References

There are no related documents associated with this Policy.

VI. Review and Approval History

- A. The approving authority of this policy is the University Executive Committee.
- B. The review frequency cycle is set for three years following the last review date, a time period that is not mandated by regulatory, accreditation, or other authority.

Effective Date	Action Taken	Approved By	Date Approved
01/2003	Policy Origination		
08/2018	Policy Revision		