Policy 4.75
Military

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Responsible Official: VP for Human Resources
Administering Division/Department: Leaves of Absence
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Policy Sections:
I. Overview
II. Policy Details
III. Related Links
IV. Revision History

Overview

Emory provides military leave to employees in accordance with the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) and Georgia law. USERRA provides guidelines for employees who elect military leave and for the prompt reemployment of employees who left employment to perform military training or service in one of the Uniformed Services and who have completed such service under honorable conditions.

The Uniformed Services include the Armed Forces, the Army National Guard, and Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service or obligation.

Policy Details

REQUESTING LEAVE

Employees who enter the uniformed services are entitled to military leave of absence without pay for a period not to exceed five years.

The employee is required to provide notification to the department as soon as reasonably possible of the need for military leave. In addition, the employee should complete a Leave of Absence Request Form and provide copies of appropriate military orders or other supporting documentation for situations that do not warrant military orders.

DEPARTMENT DOCUMENTATION

All Human Resources Action Forms (HRAFs) should be submitted to Human Resources at the time of the military leave along with all supporting documentation placing the employee on military leave. This documentation should include the Leave of Absence Request Form, the military orders/supporting documentation, and an approval letter to the employee.

USE OF LEAVE BALANCES

In accordance with federal law, employees are not required to use vacation leave for military leave. However,
employees may elect to use their vacation leave. Employees must request in writing to use unused vacation leave balances or take leave without pay for the entire leave period.

To the extent that military leave is taken as paid leave, employees on military leave will continue to accrue vacation and sick leave during the paid portion of the leave. Employees do not accrue leave benefits while on unpaid leave.

All periods of military leave without pay will be counted as credited service for all benefits that are based on length of service, including service awards.

**REEMPLOYMENT RIGHTS: GENERAL REQUIREMENTS**

Employees who are absent from work for the reason of serving in the Uniformed Services, or for the purpose of an examination to determine fitness to perform service, whether voluntarily or involuntarily, are entitled to reemployment rights and other benefits if (1) the cumulative period does not exceed 5 years; (2) the employee is discharged under conditions that do not constitute dishonorable conduct; and (3) the employee reports for reemployment according to the following time limits (based on the length of military service):

- **Unless applicable law provides otherwise,** employees whose period of uniformed service is less than 31 days must report to work on the first regularly scheduled workday following returning from the place of duty (8 hours is allowed to return home from place of duty).
- Employees whose period of uniformed service was from 31 days to 180 days must submit an application for reemployment no later than 14 days after the completion of service.
- Employees whose period of uniformed service was more than 180 days must submit an application for reemployment no later than 90 days after completion of service.

Documentation must be provided to establish timeliness of application, and to ensure that all eligibility requirements for reemployment are met. Failure to provide documentation cannot be used as a basis to deny reemployment if the requested information is not readily available through no fault of the employee. **Georgia law gives employees 90 days after completing military service to apply for reinstatement, regardless of the length of leave.**

Emory is not required to reemploy an employee if the employment from which he/she leaves to serve in the uniformed services is for a brief, non-recurrent period and there is not a reasonable expectation that such employment will continue indefinitely or for a significant period.

**REEMPLOYING A DISABLED VETERAN**

An employee who has a disability incurred in, or aggravated during military service, and who (after reasonable efforts by the department to accommodate the disability) is not qualified due to the disability to be employed in the former position, must promptly be reemployed in any other position which is: equivalent in seniority, status and pay, or the nearest approximation to a position in terms of seniority, status and pay, consistent with circumstances of the person’s case.

**DETERMINING POSITION UPON REEMPLOYMENT**

An employee whose period of uniformed service was:

- Less than 91 days of service must be reemployed, promptly, in a position that he/she would have attained if continuously employed. If not qualified for that position (after reasonable attempts to qualify the employee) the employee must be reemployed in the position he/she left.
- For service of 91 days or more, the requirement is the same, however, a position of like seniority, status and pay may be offered.
- The employing department is responsible for paying the employee's wages until the institutional obligation is met (6 months or 12 months) or until placed within Emory or elsewhere.

**DISMISSING THE EMPLOYEE**

Employees returning from military leave may not be dismissed, except for cause, within these time limits:

- Within the first year of reemployment, if the period of service was more than 180 days, or
- Within the first 6 months of reemployment, if the period of service was between 30 and 180 days.

**BENEFITS**

**Health, Dental, Life & Flexible Spending Accounts**

An employee and his/her dependents are eligible to continue participation in the health and dental plan and medical flexible spending account while the employee is on military leave by paying the employee’s monthly contribution. The maximum period of coverage shall be the lesser of:

- The 24-month period beginning the date the employee’s leave of absence begins; or
- The day after the date on which the person fails to return to (or apply for) a position of employment as described in the applicable provision of the Uniformed Services Employment and Reemployment Rights Act of 1994. If the
employee cancels his/her health and dental coverage while on leave, upon reemployment, the employee must notify Emory within 31 days of returning to work of his or her reenrollment in the health and dental plans in which he or she was enrolled prior to the leave.

Emory will continue to provide Basic Term Life Insurance coverage. The employee and dependents may continue enrollment in the supplemental life, dependent(s) or personal accident insurance by paying the monthly premium(s).

**Disability Insurance**
Eligibility for participation in the Short-Term and Long-Term Disability plans and the optional COLA coverage terminates at the beginning of the unpaid leave.

**Retirement Plan**
An employee’s service in the military must be counted in determining his/her vested interest and accrued benefits in the Retirement Plan only to the extent required to do so under the law.

**Courtesy Scholarship**
Courtesy Scholarship for dependents may continue during a military leave.

**Related Links**

- Current Version of This Policy: [http://policies.emory.edu/4.75](http://policies.emory.edu/4.75)

**Revision History**

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