

## I. POLICY

The college will provide short-term or full-time-military leave to employees, as appropriate, in compliance with federal and state law and mandates.

## II. REFERENCES

- A. Uniformed Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301-4335.
- B. Reserve Member of Armed Forces–Leave of Absence From Employment–Liability of Employers, Utah Code Ann. § 39-1-36.
- C. Governmental Employees in Military Service, Utah Code Ann. §§ 39-3-1–2.

## III. DEFINITIONS

See [Human Resources Definitions](#).

## IV. PROCEDURES

- A. Employees are required to give advance written or verbal notice to their supervisor and to Human Resources of the absence for military leave, unless giving of such notice is precluded by military necessity, or is otherwise impossible or unreasonable.
- B. Short-Term Military Leave.
  - 1. Employees who are members of any reserve branch of the United States Armed Services are entitled to a leave of absence with full pay, not to exceed a total of 15-calendar days (including Saturdays, Sundays, and scheduled holidays) per fiscal year, for active duty training. The wording of this paragraph follows that of state law. The reference to 15-calendar days has been administratively interpreted to mean not more than 11-working days.
  - 2. Employees must be placed on military orders for the training and must provide copies of the orders through the supervisor to Human Resources
- C. Full-Time Military Leave.
  - 1. College employees who are drafted, volunteer, or are called into active service in the United States Armed Services will be granted a leave without pay for the

duration of full-time military duty, not to exceed five years, plus up to an extra ninety days for reinstatement of employment, as needed.

2. The ninety-day reinstatement period may be extended up to two years if an individual is hospitalized or convalescing from an injury caused by active duty or for the minimum time required to accommodate the employee's disabilities.
3. Full-time, regular employees returning to work on or before the expiration of military leave and having satisfactorily completed their active duty service shall receive prompt reinstatement without undue delays.
4. They will be entitled to the same or similar position and pay rate, as was held prior to active military duty. The employee will be paid a salary which includes average increases received by other persons in similar positions during the leave.
5. They shall also be entitled to the sick and vacation leave accrued to their credit at the time the military leave began.
6. The employee is to be restored as if continuous service had been rendered to the college during the course of active military duty with no loss of promotions, pay increases, length of service, or other position attributes that would have definitely occurred had the person remained.
7. Tenure-track faculty entering active military duty will have the tenure clock stopped with no penalty for the period of absence.
8. Upon reinstatement, a returning employee is protected from being discharged except for cause for:
  - a. a period of six months if the military service was between 30 days and 181 days; and
  - b. one year if the military service was more than 180 days.
9. The Reduction In Force, Payment in Lieu of Notice, and Bona Fide Financial Exigency Policy is applicable to college employees including individuals involved in military service.
10. Employees returning from active duty with service-connected disabilities will be reasonably accommodated.
11. If reasonable accommodations do not allow an employee to successfully perform the essential function of a position, the employee will be placed in an equivalent position in terms of seniority, status and pay, for which he or she is qualified (or can be qualified with reasonable accommodation).

12. If no such position is available, the employee must be put in the nearest approximate position.

#### D. Insurance

1. The college will continue medical, dental, and life insurance benefits at the same level that was provided immediately prior to the call to active military service for 30 days beyond the date the employee begins active military duty.
2. To extend salary during this 30 day period the employee may choose to use short-term military leave or accrued vacation leave, or both.
3. Beyond this 30 day benefit-continuation period, other basic employee benefits will be handled as they are for any other employee taking a leave of absence without pay.
4. Insurance benefits will be discontinued for employees on full-time military leave beyond 30 days of entry to active duty, unless accrued and unused vacation is used or the premium is paid by the employee.
5. Employees will be allowed to continue health insurance benefits by paying the premiums for such benefits under the COBRA continuation provisions.
6. Upon re-employment, the pre-existing conditions clause will be waived for medical problems incurred while on active military duty.
7. Employees who are on active military duty for periods in excess of eleven workdays may use accrued and unused vacation, which continues the salary and benefits coverage.

#### E. Retirement

1. Individuals whose employment is interrupted by active military service will be given retirement benefit accruals for the period of military leave.
2. Retirement premiums will be paid during the period of the active military duty plus up to an extra 90 days for reinstatement purposes, as needed.
3. The individual must return to covered service (i.e., employment at the college) upon receiving an honorable discharge from military service in order to qualify for state retirement plan accruals and may be required to validate the discharge by presenting form DD Form 214 from the Armed Services.

4. The college will pay retirement premiums for employees called to active duty for a cumulative period not to exceed five years and up to an extra 90 days, for reinstatement of employment, at the approved premium rate, and based upon the employee's compensation at the time of entry into active military service. This will apply to employees enrolled in a college retirement plan.

F. Continuation of Benefits

Continuation of paid benefits during long-term military leave for the employee and dependents the first 30 days after being called to active duty are in addition to federal requirements. They follow the direction and intent of the governor and USHE Council of Presidents, as coordinated by the commissioner's office.

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Date of last cabinet review: August 30, 2016

The originator of this policy & procedure is Human Resources. Questions regarding this policy may be directed to the originator by calling 801-957-4210.