

<b>System-wide Policy: HR0370 - Military Leave</b>	
<b>Version: 6</b>	<b>Effective Date: 10/01/2017</b>

## HR0370 – Military Leave

### Topics:

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### Objective:

To ensure university employees have the opportunity to continue employment with the university while fulfilling their military obligation and to provide appropriate reemployment opportunities.

### Policy:

1. An employee or applicant for employment who performs, applies to perform, or has an obligation to serve in a uniformed service may not, on that basis, be denied employment or reemployment or be discriminated against for such service or application for service in any manner.

### **Military Leave with Pay**[https://policy.tennessee.edu/hr\\_policy/hr0370/](https://policy.tennessee.edu/hr_policy/hr0370/) - [top](#)

2. Regular employees of the university who receive orders to report for training or active duty in the armed services of the state of Tennessee or of the United States shall be entitled to military leave with pay for up to 20 working days per calendar year. Such pay shall be made at the employee's regular rate of pay.

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Faculty members employed on an academic year basis are encouraged to perform their military training during periods when classes are not in session.

3. According to state law, regular employees are entitled to leave with pay if they are called to active duty by the state of Tennessee (such as a member of the National Guard called to duty to quell a riot).

**Military Leave Without Pay or Use of Accrued Paid Leave**

4. All employees of the university who receive orders to report for training or active duty in the armed services of the state of Tennessee or of the United States will be granted leave of absence without pay (for military reasons). Regular employees who have exhausted their military leave with pay for 20 working days in any one calendar year, may elect to use their accrued annual leave or take military leave without pay. Accrued sick leave may be taken if the employee provides proof to the university that he or she was sick while serving in the armed services.

**Reinstatement**

5. Within the guidelines established by federal and state laws, employees who take leave to serve in the armed services are entitled to reemployment with the university provided:
  - a. Advance written or verbal notice of military service is provided to the university, unless such notice is precluded by military necessity or is otherwise impossible or unreasonable.
  - b. Cumulative absence due to military reasons does not exceed five years.
  - c. The employee reports to work or applies for reemployment on a timely basis as follows:
    - i. Employees with military service of 30 days or less or absences for the purpose of an examination to determine fitness for service must report to the university no later than the beginning of the first regularly scheduled work day following completion of service and eight hours after a period sufficient to allow safe transportation of

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- the employee from the place of service to the employee's residence.
- ii. Employees with military service of more than 30 days but not more than 180 days must submit an application for reemployment no later than 14 days following completion of service (or within the next calendar day that application becomes possible when application within that period is impossible or unreasonable through no fault of the employee).
  - iii. Employees with military service of more than 180 days must submit an application for reemployment no later than 90 days following completion of service.
6. An employee's failure to report within the time described above subjects the employee to the university's policy regarding authorized absence from work.
  7. An employee disabled by injury or illness in connection with military service is afforded a period of recovery not to exceed two years. The reemployment rights stated above apply provided the employee reports or applies for reemployment within the time limits set above.
  8. Employees returning from military leave who meet the criteria for reinstatement are entitled to be placed in certain positions as described below according to the following order of priority:
    - a. An employee whose period of service is 90 days or less must be reemployed in the position he or she would have held had his or her employment not been interrupted by service.
    - b. An employee whose period of service is more than 90 days must be reemployed in the position he or she would have held had his or her employment not been interrupted by service or in a position of like seniority, status, and pay for which the employee is qualified.
    - c. The university will make a reasonable effort to qualify a returning employee who is not qualified or is no longer qualified for positions listed in 8a and 8b above; however, the university is not required to place an individual in a position for which he or she is not qualified, if doing so would impose undue hardship on the university.

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- d. An employee returning with a service-related disability which renders the employee unqualified for his or her former position must be employed in a position of equivalent seniority, status, and pay which the employee is qualified to perform (or which the university can qualify to perform with reasonable efforts) or, if such equivalent position does not exist, in the nearest approximation to such position in terms of seniority, status, and pay.
- e. When a position as described above does not exist, the returning employee must be employed in any other available position of lesser status and pay which the employee is qualified to perform, with full seniority.

**Continuation of Benefits**

- 9. A returning employee is entitled to the same seniority and other rights and benefits he or she would have had if the employee had remained continuously employed.
- 10. While in the service, an employee is entitled to the same benefits as other employees on leave of absence, including the use of paid sick and annual leave at the employee's election. Accrued annual leave may be taken in lieu of leave without pay. Accrued sick leave may be taken if the employee provides proof to the university that he or she was sick while serving in the armed services. The employee is required to pay any benefit costs which are normally paid by other employees on leave.
- 11. A reemployed employee whose period of service is more than 30 days but not more than 180 days may not be discharged (except for cause) within 180 days of reemployment; an employee whose service is more than 180 days may not be discharged (except for cause) within one year following reemployment.
- 12. An employee may, while in the service, elect to continue university health plan coverage for a period of 18 months or, where the employee's leave is less than 18 months, until the day after the date on which the employee fails to apply for or return to university employment as required by the Act.

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- a. An employee in the service for 30 days or less is required to pay only the employee's portion of the insurance premium.
  - b. An employee in the service for more than 30 days must pay both the employee and employer share of the premium.
  - c. If coverage is terminated at the employee's option, a waiting period for reinstatement upon return to employment may not be imposed.
13. For retirement purposes, a returning employee is considered as not having incurred a break in service.
- a. Following the employee's return to university employment, the university must make the retirement plan contributions which would have been made in the absence of a break in service not to exceed five years.
  - b. Employer and employee contributions are based on the rate of pay the employee would have received had he remained continuously employed.
14. Reemployment rights may be waived by an employee but such waiver may be relied on by the university only if the waiver is in writing and clearly states that the employee is aware of the rights guaranteed by the Act that are being surrendered.

### Registration for the Selective Service System

Employees required to appear at an off-campus location for the purpose of registering with the Selective Service System will be granted up to two hours' time off with pay, if those employees are unable to register outside of normal working hours.

#### PROCEDURES:

To view links to campus policies and procedures, click here:

<https://policy.tennessee.edu/campus-policies-procedures>

**Related Policies:** [HR0305 - Annual Leave \(Vacation\)](#), [HR0375 - Retirement Plans](#), [HR0380 - Sick Leave](#)