



Policy Chapter: Chapter 5 Human Resources

Policy Number and Title: 05.049 Military Leave (Annual or Short-term)

I. Policy Statement

The University supports employees who serve in state or federal military units and provides employment protections, rights, and benefits to those employees who serve our country. The University will grant military leave to employees who are called to fulfill federal or state government military duties.

II. Application of Policy

All regular faculty and staff

III. Policy Definitions

A. *Armed Forces of the United States*

“Armed Forces of the United States,” in this policy, means any of the following:

1. Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard;
2. Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve;
3. Army National Guard or Air National Guard;
4. Commissioned Corps of the Public Health Service; or
5. any other category of persons designated by the President of the United States in time of war or emergency.

B. *Military Necessity*

“Military necessity,” in this policy, means a mission, operation, exercise, or requirement that is classified, or a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

C. *Regular Staff*

“Regular staff,” in this policy, means an employee who is scheduled to work at least twenty (20) hours per week for a period of at least four and one-half (4 ½) months and is not employed in a position for which the employee is required to be a student as a condition of the employment.

D. *Regular Faculty*

“Regular faculty,” in this policy, means a faculty member who is scheduled to work at least twenty (20) hours per week for a period of at least four and one-half (4 ½) months and is not employed in a position for which the employee is required to be a student as a condition of the employment.

E. Texas Military Forces

“Texas Military Forces,” in this policy, means the Texas Army National Guard, the Texas Air National Guard, the Texas State Guard, or any other military force organized under state law.

IV. Policy Responsibilities

A. General Provisions

All regular faculty and staff taking part in military duties, including active duty, reserve, or National Guard, for training, periods of active military service, and funeral honors duty, as well as time spent being examined to determine fitness to perform such service, are eligible for paid or unpaid military leave, depending on the type of leave.

1. An employee, or appropriate officer of the branch of the military in which the employee will be serving, must give advance oral or written notice to the employee’s supervisor of any impending service unless notice cannot be given because of military necessity or notice is impractical. The department head has the authority to approve military leave.
2. Upon completion of military service, the employee must report to UNT not later than the beginning of the first full regularly scheduled work period on the first full calendar day following completion of the period of service plus 8 hours, after a period allowing for safe transportation from place of service to residence.
3. An employee’s right to reinstatement under this policy and applicable laws cannot be revoked or forfeited, regardless of whether they terminate their employment with UNT.
4. An employee on unpaid military leave may be replaced with a temporary employee during their leave.

B. Annual or Short-term Paid Military Leave

1. Paid military leave shall be granted to employees who, as members of the National Guard, or Reserve Components of the Armed Forces of the United States or Texas Military Forces, shall be engaged in training or duty, ordered, or authorized by proper authority. Such leave shall be granted only for the actual period necessary to fulfill the military requirement. Leaves other than those required in emergencies may not exceed fifteen (15) working days in any Federal fiscal year (October 1 - September 30).
2. To facilitate participation in military duties, supervisors shall adjust the work schedule of any employee who is a member of the Texas National Guard or the United States Armed Forces Reserve so that two of the employee's days off work each month coincide with two days of military duty to be performed by the employee.
3. Annual military leave is not charged against vacation leave or sick leave balances.
4. Annual or short-term military leave utilized should be recorded in the appropriate timekeeping system.

C. Extended Unpaid Military Leave and Reinstatement After Service

Any employee who leaves a position to enter active military service because of induction (draft) or enlistment, or who is ordered to active duty as a member of the Texas Military Forces, or as a member of any of the reserve components of the Armed forces of the United States, shall be considered to be on extended unpaid military leave, and upon honorable discharge within five years from the date of enlistment or call to active service shall be reinstated to the former employment under the following provisions:

1. The employee must make written application for reinstatement after discharge, separation, or release from military service.
 - a. If the period of military service was more than thirty (30) days but less than 181 days, the employee must apply for reemployment not later than fourteen (14) days after military service is completed, or the next full calendar day when such application becomes possible.
 - b. If the period of military service was greater than 180 days, the employee must apply for reemployment not later than ninety (90) days after service is completed.
 - c. If it is impossible or unreasonable for the employee to apply for reinstatement within the prescribed period through no fault of the employee, he or she is allowed to report as soon as possible following the period, but may be subject to established policy and general practices of UNT pertaining to explanations and discipline with respect to absence from scheduled work.
2. Evidence of honorable discharge, separation, or release must be attached to the written application.
3. Upon compliance with the provisions stated above, the employee shall be reinstated to the same position or to a position of like seniority, status, and pay, if qualified physically and mentally to perform the essential functions of the position, with or without accommodation. An employee who has a disability incurred or aggravated during service must receive priority treatment in securing his/her previous position, if still qualified.
 - a. *Disability*

If the employee is not qualified to perform the essential functions of the former position because of a service-connected disability, the employee shall be restored to a position which most nearly approximates the former position in seniority, pay, and status.
4. An employee who returns from an extended unpaid military leave is entitled to any across-the-board or mandatory raises that have been granted to employees in similar positions during the absence.

5. Exceptions to Five-Year Limitation for Reinstatement

Employees shall be considered for reinstatement to former employment upon honorable discharge after five (5) years from the date of enlistment or call to active service when:

- a. service required beyond five (5) years to complete an initial period of obligated service;
- b. service from which a person, through no fault of the person, is unable to obtain a release within the five (5) year limit;
- c. required training for reservists and National Guard members;
- d. service under an involuntary order to, or to be retained on, active duty during domestic emergency or national security related situations;
- e. service under an order to, or to remain on, active duty (other than for training) during a war or national emergency declared by the President or Congress;
- f. active duty (other than for training) by volunteers supporting "operational missions" for which Selected Reservists have been ordered to active duty without their consent;
- g. service by volunteers who are ordered to active duty in support of a "critical mission or requirement" in times other than war or national emergency and when no involuntary call-up is in effect; and
- h. federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion, or to execute the laws of the United States.

D. Military Leave During National Emergency

1. Leave and Accruals

Employees called to active duty in support of a national emergency under Title 10 or Title 32 of the United States Code are entitled to an unpaid leave of absence. During this period employees shall accrue state service credit for purposes of longevity pay; vacation leave; and sick leave. The employee may retain any accrued vacation or sick leave and is entitled to be credited with those balances on return to state employment from active duty. Leave earned while on unpaid military leave is credited to the employee's balance when the employee returns to state employment.

2. Benefits

An employee activated under paragraph D.1. above may use any accrued vacation leave, earned compensatory leave, or overtime leave under the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended, in whole or in part, to maintain

benefits for the employee or the employee's dependents while the employee is on active duty. Before an employee leaves for active duty, the University shall review with the employee any issues relating to maintaining state health insurance coverage during the employee's active duty, including what the employee needs to do to maintain state health insurance coverage, how health insurance coverage is affected by paid or unpaid leave, and how to pay any premium required for the insurance coverage.

3. Retirement Service Credit

An employee activated under paragraph D.1. above may continue to accrue service credit with the Employees Retirement System of Texas by receiving at least one hour of state pay during each month of active military service. The employee may use any combination of paid leave, including state compensatory leave, overtime leave under the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended, annual leave, military leave, or approved agency differential pay, to qualify for the state pay.

4. Military Pay Differential

Employees called to active duty in support of a national emergency under Title 10 or Title 32 of the United States Code and whose military pay is less than their state gross pay, are eligible for emergency leave as differential pay to make up the difference between military pay and state gross pay. The combination of emergency leave and military pay may not exceed the employee's actual state gross pay. For this purpose, military pay does not include any allowances the employee receives for service in a combat zone, hardship duty, or family separation. Service members involved in routine military training or who are attending military schools are not entitled to emergency leave under this section.

- a. The amount of required differential pay, if applicable, shall be verified each month by obtaining a copy of the employee's Military Leave and Earnings Statement (LES) and then calculated and recorded in accordance with guidelines provided by the Texas State Auditor's Office.
- b. All emergency leave granted under this provision shall be documented in the employee's time records with administrative approvals.

E. Military Leave During National Guard Emergency

1. A state employee called to state active duty as a member of the Texas military forces by the governor because of an emergency is entitled to a leave of absence without a deduction in salary.
2. A state employee who is called to federal active duty as a member of the Texas military forces may not receive their state gross pay except as provided under paragraph D.4. above.

F. Benefits Administration

The administration of employee benefits during a paid or unpaid military leave shall be as follows:

1. Employees may either freeze accrued vacation leave until they return, or expend it. Accrued sick leave shall be frozen until the employee returns to work. If a staff member does not return to work, he shall be paid for all frozen vacation leave as of the last day of duty. Such lump sum payment will be paid at the rate of pay as of the last day of duty.
2. Credit for vacation or sick leave entitlement is not accumulated during unpaid military leave. If the employee has any fraction of paid employment in a month, the employee will be credited with sick leave and vacation entitlement for that month.
3. An employee's time in an extended unpaid military leave is creditable toward "total State employment" for the purpose of earning vacation leave, and is also creditable to seniority and longevity.
4. If the employee was hired as a trainee, the returning employee can be required to finish the training period.
5. No pay is given for holidays which occur during the period of unpaid military leave.
6. The employee's retirement program will remain intact with benefits suspended until the employee returns to work.
7. Employees called to active duty may continue all insurance coverage except disability, which is suspended, for up to twelve (12) continuous months under the rules of the Group Benefits Program administered by the Employees Retirement System. During this time, employees are not eligible for the state contribution and must pay the full premium for coverage. If premiums are not paid, all coverage must be canceled.
8. If military service continues beyond twelve (12) months, the employee is eligible to continue health and dental coverage for himself and/or dependents for up to eighteen (18) months under the provisions of COBRA provided coverage has not been canceled for non-payment of premiums.
9. Employees who return to work from military leave may, effective the date they return to work, reinstate all reduced or canceled coverages that were in effect immediately prior to going on military leave provided the employee returns to work within ninety (90) days of being discharged from active duty and completes enrollment within thirty (30) days from the date the employee returns to work. No new period of preexisting conditions exclusion for disability coverage would apply. However, if the period of preexisting conditions exclusion was not completed by the date coverages were canceled, the remainder of the preexisting conditions exclusion period would apply.

V. References and Cross-References

[Texas Government Code §§ 661.903, 661.904 & 658.008](#)

Attorney General Opinion No. C-679, May 9, 1966

PL 103-353, "Uniformed Services Employment and Reemployment Rights Act of 1993"

State Auditor's Office Leave Interpretation, No. 98-06

VI. Revision History

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