

**Wright State University
Department of Human Resources**

**Procedures for
Military Leaves of Absence and Reemployment Rights**

October 5, 2001

With President Bush's announced call up of military reservists to the uniformed services for Homeland Defense, it is appropriate to review the state and federal legal requirements and the Wright State University personnel policy. This includes military leave and reemployment rights of employees who will be absent from their university employment to serve in the country's military forces. Wright State University is pleased to do its part by carrying out its legal and policy obligations to employees called to military duty and to restore these employees returning from military to the jobs they would be holding if they had remained here. Further, the university expects full support to be extended to these employees, while making every effort to carry out both the spirit and letter of these regulations.

Legal Requirements—

Individuals who are members or who apply to be members of the uniformed services cannot be denied initial employment, re-employment, retention in employment, promotion, or any benefit of employment on the basis of that membership or performance of service.

Military Leave—

Employees called up for duty or who enlist in the military, reserve, National Guard, or other federally designated uniform services will be placed on military leave. This applies to all employees including part-time, seasonal and probationary. Temporary employees who are hired for a specific short-term project and limited term employment that is scheduled to end in the foreseeable future are excluded. Consult with Human Resources regarding all military leave eligibility issues.

Leave request procedures and requirements—

In order for requests to be honored, employees are required to notify their employer of the need for military leave. Notification of leave can be given verbally; it is not required to be given personally or in writing. The Department of Human Resources should be immediately notified whenever an employee provides notice of military duty.

Pay Continuation—

Employees on military leave shall receive up to one month's full compensation for each calendar year. In the event of multi-year activation, employees shall receive their salary for one month or each year of active military service. Fair

Labor Standards Act (FLSA) exempt employees shall also be paid for the full week for any week during which they performed some work prior to military leave.

Benefits Continuation—

Employees on military leave shall continue coverage under the university's group medical and life insurance program for up to one year by paying the applicable employee premium. Such coverage is on the same terms that the university provides medical and life insurance coverage to similar benefit eligible employees. Coverage is subject to any exclusions or restrictions imposed by the insurance carrier. After one year, employees may elect to continue university-sponsored health care for themselves and their families by paying the full COBRA rate for as long as mandated by state or federal law.

Time-off Benefits—

Employees on military leave do not accrue vacation or sick leave and do not receive pay for any holidays falling during the period of their absence. Employees who have accumulated vacation leave can schedule vacation at the same time as military leave and be paid. However, vacation use is not required while on military leave. Time on military leave is calculated toward the length of service for purposes of determining the rate of vacation accrual after returning.

Reemployment Following Military Leave—

Both state and federal laws grant employees the right not only to take time off from work to perform military service, but also to be fully restored to positions with the same seniority, status, and pay they would have had if they had never left. Some of university's obligations include:

- If the worker was newly hired and on probation when military leave began, the law assumes that the worker would have completed the probationary period and become a regular employee unless there was a formal training program requirement. In other words, unless there are unusual circumstances, the reemployed individual cannot be required to serve any remaining probationary period.
- Returning workers retain full seniority, based on the original date of hire, with no adjustment or reduction for time away from the job while on military leave.
- Returning workers after military leave of absence of 90 days or less must be restored to their former positions. Employees returning to work after military leave of absence of 91 days or longer are restored either to their former positions or, if their former positions are not available, to jobs that are equal to their former positions in status and pay.

- Employees returning from military service must make timely request for reemployment to qualify for reinstatement. The reemployment notification period that must be provided to the university ranges from one to 90 days from the date of being discharged based on the length of military service.
- Returning workers are entitled to their former level or rate of compensation, plus any general increases that occurred during their absence. This includes merit increases.

Termination Protection—

Federal law provides that an individual cannot be discharged, except for cause, for one year after being reemployed if that employee served in the military service for more than 180 days. A returning employee is protected from discharge without cause for 180 days if the period of service was for less than one year but more than 30 days.