

**Applies to:** Faculty, staff

**Responsible Office**

**Human Resources**

### POLICY STATEMENT

Faculty and staff are eligible for military leave benefits and reemployment rights in accordance with state and federal law.

#### Purpose of the Policy

To provide eligible faculty and staff military leave benefits and reemployment rights in accordance with federal and state law, which includes the *Uniformed Services Employment and Reemployment Rights Act*.

Term	Definition
Allowances	Monies provided for specific needs, such as food or housing, in addition to an individual's basic military pay.
Calendar year	The year beginning on the first day of January and ending on the last day of December.
Employee benefits	Any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary) that accrues by reason of an employment contract or agreement, or an employee policy, plan, or practice. This includes rights and benefits under a pension plan, health plan insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacation, and opportunity to select work hours or location employment.
Month	22 eight-hour workdays or 176 hours within one calendar year.
Presidential or Congressional order	Calls to active duty issued by the President or Congress normally associated with a national military action (e.g., Iraq, Afghanistan or the War on Terrorism).
Regular call-up	Calls to active duty issued by the governor, National Guard, or Department of Defense normally associated with a state or federal requirement for training or active duty for short periods of time. Examples include summer or weekend training, professional development, unit deployment, snowstorms, or flood duty.
Uniformed services	The U.S. Armed Services, including the Coast Guard, the Ohio organized militia, the commissioned corps of the Public Health Service, and the National Guard (when engaged in active duty for training, inactive duty for training, or full-time National Guard duty), and any other category of persons designated by the President in time of war or emergency.

#### Policy Details

- I. Provisions
  - A. Faculty and staff, full-time or part-time, at any full time equivalency (FTE), who are members of the **uniformed services**, are entitled to military leave of absence with pay for up to one **month** each **calendar year**, and without pay for up to a maximum of five years.
  - B. Military leave does not affect vacation or sick leave balances.
  - C. Military leave is granted for both voluntary and mandatory service.
  - D. Pay and medical **benefits** vary depending on whether the service is a result of a **regular call-up** or a call-up due to **Presidential or Congressional Order**.
  - E. An employee may be absent from college employment pursuant to this rule for a cumulative amount of time not to exceed five years unless special orders are issued by the President of the United States or the United States Department of Defense.

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- F. An employee who requests a military leave of absence must provide reasonable advance written notice of such active military service to the college. Such advance notice is not required where it is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable.
- II. Military leave due to regular call-up
  - A. Regular call-up for one month or less
    - 1. For military call-ups of one month or less, individuals are entitled to receive leave with pay for up to 22 days or 176 hours for each calendar year.
    - 2. Medical, dental, vision, and retirement benefits are continued for the individual and covered dependents as if the individual was not on leave.
  - B. Regular call-up exceeding one month
    - 1. For military call-ups that exceed one month, individuals are entitled to receive leave without pay for up to a maximum of five years.
    - 2. Individuals on active duty may elect to use the military health care system or may continue existing college medical, dental and vision coverage for the duration of the call-up period. The cost of the coverage will remain the same as if the individual was not on leave. Upon return from military leave, individuals are entitled to reenroll in college health benefits without any waiting period.
    - 3. Retirement contributions to state systems are not required during the period of military leave. Individuals may purchase military service time in accordance with the rules of their respective public retirement systems (OPERS, STRS). Purchasing military service time is not available for Alternative Retirement Plan (ARP) participants.
- III. Military leave due to Presidential or Congressional Order
  - A. For call-ups of one month or less, pay and benefit entitlements are the same as for a regular call-up.
  - B. For call-ups that exceed one month
    - 1. The college will provide the individual a monthly pay differential equal to the difference between the current gross monthly wage or salary and the sum of the gross military pay and **allowances**.
    - 2. Individuals on active duty may elect to use the military health care system or may continue existing college medical, dental, and vision coverage for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Upon return from military leave, individuals are entitled to reenroll in college health benefits without any waiting period.
    - 3. Retirement contributions are the same as for regular call-up exceeding one month.
- IV. Reemployment rights
  - A. The intent of the *Uniformed Service Employment and Reemployment Rights Act of 1994* is to encourage non-career military service by eliminating or minimizing the disadvantages to civilian careers and employment that occur as a result of military call-ups. The thrust of the law is to restore the individual to the previous employment position with all seniority, status, pay, and benefits that would have accrued if the individual had not left for military service.
  - B. To be eligible for reemployment rights, individuals must have been issued a discharge under honorable conditions.
  - C. Discrimination or retaliation for participation is prohibited, whether an individual volunteers or is ordered to active military service.
  - D. An individual's right to reemployment includes restoration of the benefits that were elected by the employee and his or her dependents at the time military service began, as well as to benefits that began during the leave for which the individual would reasonably have become eligible. For example, if vacation accrual increases from two weeks to three weeks upon completion of five years of service, then a person who works for two years, serves two years on active duty, and then returns, would be entitled to three weeks of vacation one year after reemployment.
  - E. The college is not required to reemploy a person after military leave if:
    - 1. The college's circumstances have so changed as to make such reemployment impossible or unreasonable;
    - 2. Such reemployment would impose an undue hardship upon the college; or

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3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurring period.

### PROCEDURE

#### I. Return from duty

- A. A veteran returning from military service is entitled to be restored to his or her former position or to one of similar seniority, pay, and status, if he or she is qualified to perform the duties of the former position. Positions for which a serviceperson will have rights are based on the length of the persons intervening uniformed service. There is a condition in most instances that the person is qualified for the position in which he or she will be reemployed. Under the law, a person is "qualified" for a position if he or she has the ability to perform the essential tasks of the position. The *Uniformed Services Employment and Reemployment Rights Act* has left "essential" tasks undefined because this requirement is somewhat akin to those of the *Americans with Disabilities Act* (ADA) essential job functions.
  1. Uniformed service of less than 91 days. A person whose uniformed service was fewer than 91 days is to be promptly reemployed in the position that he or she left.
  2. Uniformed service for more than 90 days. If the intervening uniformed service was for more than 90 days, the returning employee will have the same reemployment rights as persons with a shorter term of uniformed service, except that he or she will have the additional option of employment in a position of like seniority, pay, and status.
  3. The *Uniformed Services Employment and Reemployment Rights Act* does not create a system of seniority but simply recognizes any existing seniority systems that have been established by contract, custom or practice. For example, with one employer there can be a system of seniority for general employees but not for managers and executives. Only the former group would be able to enforce these rights.
- B. The employer is obligated to make reasonable efforts to update the skills of an employee who is not initially qualified for the position to which he or she is entitled, unless such efforts would create an undue hardship. Congress intends the employer provide refresher training and any training the employee would have received if he or she had remained on the job, before deciding on an employee's qualifications.

### Responsibilities

Position or Office	Responsibilities
Human Resources	<ol style="list-style-type: none"> <li>1. Consult with employees and departments regarding military leave.</li> <li>2. Consult with the U.S. Armed Forces regarding military rules, regulations and administration.</li> <li>3. Process benefits continuation selections.</li> </ol>
Employing department	Consult with employees and Office of Human Resources regarding military leave.
Employee	<ol style="list-style-type: none"> <li>1. Provide as much advance notice of the absence as possible.</li> <li>2. Provide copies of official orders or other official documentation.</li> <li>3. Submit an Application for Leave form.</li> <li>4. Select pay and benefit options desired during absence.</li> <li>5. Retain copies of all submitted documents.</li> <li>6. Apply for reemployment in a timely manner               <ul style="list-style-type: none"> <li>○ For service of less than one month, the employee must apply for reinstatement no later than the beginning of the first full regularly scheduled work period that starts at least eight hours after return from military service.</li> <li>○ For service of more than one month but fewer than six months, the employee must apply for reinstatement not later than fourteen days after release from active service.</li> </ul> </li> </ol>

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Position or Office	Responsibilities
	<ul style="list-style-type: none"> <li>○ For service of more than six months, the employee must apply for reinstatement not later than ninety days after release from active service. Failure to provide notice does not mean that an individual forfeits his or her rights. Rather, it subjects the individual to the employer's conduct rules, established policies and general practices.</li> <li>○ The individual must provide documentation of a discharge, or release from duty, under honorable conditions.</li> </ul>

### Resources

- I. Websites
  - A. [Americans with Disabilities Act](#)
  - B. [Ohio Public Employees Retirement System \(OPERS\)](#)
  - C. [Ohio Revised Code](#)
  - D. [State Teachers Retirement System of Ohio \(STRS\)](#)
  - E. [Uniformed Services Employment and Reemployment Rights Act](#)
- II. Forms
  - A. [Application for leave](#)
  - B. [Benefit Continuation During Unpaid Leave Election form](#)

### Contacts

Subject	Office	Telephone	E-mail/URL
Human Resources	Founders Hall—Rm 1014	740-336-9367	<a href="https://go.cotc.edu/hr">https://go.cotc.edu/hr</a>

### History

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