

<b>The University of North Texas at Dallas Policy Manual</b>	Chapter 5.000
<b>5.017.7 Military Leave of Absence</b>	<b>Human Resources</b>

**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 active duty with the Armed Forces of the United States.

**Application of Policy.** This policy applies to all regular faculty and staff members.

**Definitions.**

1. **Armed Forces of the United States.** “Armed Forces of the United States” means any of the following:
  - Army, Navy, Marine Corps, Air Force, or Coast Guard
  - Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve
  - Army National Guard or Air National Guard
  - Commissioned Corps of the Public Health Service
  - Any other category of persons designated by the President of the United States in time of war or emergency
  
2. **Regular Faculty.** “Regular Faculty” means a faculty member appointed for at least 50 percent time for at least 4 ½ continuous months.
  
3. **Regular Staff Member.** “Regular Staff Member” means an employee who is employed for at least 20 hours or more each week on a regular basis for a period of at least 4 ½ continuous months or more.

**Procedures and Responsibilities.**

1. **Paid Annual Military Leave.** An employee who is called to active duty or authorized training as a member of the Armed Forces of the United States is entitled to a paid leave of absence without adversely affecting his/her performance evaluation, other personal leave, or salary for up to 15 working days in a federal fiscal year (October 1 through September 30). These days may be taken consecutively or intermittently throughout the year. After an employee has exhausted the 15 days of paid annual military leave, the employee generally will be placed on leave without pay for up to five years. An employee may use accrued vacation or compensatory time in lieu of being placed on leave without pay.

**Responsible Party:** Supervisor and Human Resources

2. **Entering Federal Military Service Voluntarily.** An employee who directly enters active federal service in the Armed Forces (not through the guard or reserves), will end his/her employment with the University. However, the employee will be eligible to return to University employment after military service if the employee is discharged under honorable conditions within five years and applies for restoration of employment within 90 calendar days of being discharged.

Responsible Party: Employee and Human Resources

3. **Call to State Emergency Military Service by the Governor.** An employee, who is a member of the Texas state military forces and is called to active duty by the Governor of the State of Texas because of a state emergency, will be granted emergency leave with pay for the duration of active service. This time is in addition to the employee's 15 days of paid annual military leave.

Responsible Party: Supervisor and Human Resources

4. **Military Leave during National Emergency.** An employee, who is called to active duty during a national emergency, will be granted emergency leave with pay as differential pay, when the employee's military pay is less than his/her state gross pay. This time is in addition to the employee's 15 days of paid annual military leave. The combination of emergency leave pay and military pay may not exceed the employee's normal gross pay in his/her position at the University. For purposes of this policy, military pay does include combat, hardship, or separations pay. An employee who is called to active duty during a national emergency and his/her gross military pay is greater than his/her state pay, will be placed on leave without pay, but may choose to use one hour or more of the employee's accrued vacation or state or federal compensatory time each month.

Responsible Party: Supervisor and Human Resources

5. **Employee Responsibilities.**

- 5.01. **Notice of Activation.** The employee must give advance written or verbal notice of the absence for military service unless giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. The employee is responsible to provide a copy of the military orders upon receipt to his/her supervisor and the Human Resources Department. A copy of the employee's military orders must be attached to the leave form as proof of authorization of duty, and retained in the employee personnel file.

5.02. Restoration of Employment after Military Service.

- i. An employee who returns from military service will be restored to employment in the same position held at the time of entering active service or to a position of comparable status and pay as the former position, if the employee is still physically and mentally qualified to perform job duties of the position. If an employee is not qualified to perform job duties of the position because of a disability sustained during military service but is qualified to perform the duties of another position in the same department, the veteran will be restored to employment in that position, with comparable status and pay or to the nearest possible approximation thereof.
- ii. Time limits for returning to work depend upon the duration of an employee's military service. An employee returning from active military service must report to university service as follows:
  - 1) Service of 1 to 30 days. An employee with military service of less than 31 days must report to his/her supervisor by the beginning of the first regularly scheduled workday that would fall eight hours after the end of the calendar day. If, due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible.
  - 2) Service of 31 to 180 days. An employee with military service of 31 to 180 days must make written application for restoration of employment to his/her supervisor no later than 14 days after completion of service. If submission of a timely application is impossible or unreasonable through no fault of the employee, the application must be submitted as soon as possible. If the 14th day falls on a day when university offices are not open, or there is otherwise no one available to accept the application, the time extends to the next business day.
  - 3) Service of 181 or more days. An employee with military service of 181 days or more must submit an application for restoration of employment his/her supervisor no later than 90 days after completion of military service. If the 90th day falls on a day when University offices are not open, or there is otherwise no one available to accept the application, the time extends to the next business day.

- iii. Disability incurred or aggravated during military service. The reporting and application deadlines are extended for up to two years for employees who are hospitalized or convalescing because of a disability incurred or aggravated during the period of military service. The two-year period will be extended by the minimum time required to accommodate a circumstance beyond an employee's control that would make reporting within the two-year period impossible or unreasonable.
- iv. Unexcused delay. An employee's reemployment rights are not automatically forfeited if the employee fails to report to work or to apply for reemployment within the required time limits.

Responsible Party: Employee and Human Resources

6. **Employer Responsibilities.**

- 6.01 Before an employee leaves for military service, the University will review with the employee any issue relating to maintaining state health insurance coverage during the employee's military duty. The review will include what the employee must do to maintain state health insurance coverage, how the employee's insurance coverage is affected by paid or unpaid leave, and the procedure for paying any premium required for the insurance coverage.
- 6.02 An employee who has satisfied the requirements for returning from active military duty will be restored to the same position held at the time of entering active service or a position of similar seniority, status, and pay upon return from active duty. An employee returning from military leave will be restored to active employment status and no break in service will occur if the employee applies for restoration within 90 calendar days of discharge.
- 6.03 To qualify for restoration of employment, the employee must provide evidence of discharge under honorable conditions from active military service within five (5) years from the date of enlistment or call to active duty. An employee returning from military leave should be restored to the position and status the employee would have had if employment had been continuous, if the employee is qualified to perform the duties of that position.

- 6.04 There is no break in service if the employee is on military leave without pay, even if it is for a full calendar month. Instead, that month will be counted in the calculation of the employee's total state service and applied toward satisfying the six continuous months of service requirement for using vacation leave.

Responsible Party: Supervisor and Human Resources

7. **Training.** Reasonable efforts must be made to train or otherwise qualify a returning service member for the position for which he/she is entitled or a comparable position within the University. An employee who cannot be qualified for such positions will be placed in another position. This position may be of lesser status and pay for which the employee is qualified to perform, with full seniority.

Responsible Party: Department Head and Supervisor

8. **Retraining Individuals with Service-Related Disabilities.** Training, retraining or other accommodations will be provided to employees returning from military service with a service-related disability. If a disability cannot be accommodated after reasonable efforts by the University, then the employee will be reemployed in some other position that the employee is qualified to perform. This position will be the nearest approximation of the position for which the employee was otherwise entitled, in terms of status and pay, with full seniority.

Responsible Party: Department Head and Supervisor

### **References and Cross-references.**

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

Attorney General Opinion No. H-941, February 9, 1977

P.L. 103-353, "Uniformed Services Employment and Reemployment Rights Act of 1993"

Rules and Regulations of the Teacher Retirement System of Texas and Employee Retirement System of Texas

Texas Government Code § 431.005

Texas Government Code § 613

Texas Government Code § 658.008

Texas Government Code § 661

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