

Oklahoma State University Policy and Procedures

MILITARY LEAVE

3-0719
ADMINISTRATION
AND FINANCE
May 2007

PURPOSE

1.01 Federal law prohibits discrimination by employers against persons because of their service in the Armed Forces of the United States and in certain related uniformed services in order to encourage noncareer service in the Armed Forces. Additionally, the Oklahoma Legislature has adopted laws which provide special benefits to state employees who serve in the Armed Forces. Oklahoma State University, as a matter of public policy, is committed to supporting its employees who choose to engage in service in the Armed Forces and this policy is intended to outline the rights and obligations of the University and its employees regarding such service. Often, individual cases will have to be resolved through a review of the facts particular to a given instance of military service. When faced with a unique or unclear question regarding the application of University policy and state and/or federal law to a particular case, unit administrators should consult with OSU Human Resources for assistance and direction.

DEFINITIONS

2.01 "Uniformed Services" or "Armed Forces" as used in this policy means the Armed Forces of the United States (the Army, Navy, Air Force, Marine Corps, Coast Guard, and Reserve units for each such branch); the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency.

2.02 "Service in the Uniformed Services" or "Military Service" means the performance of duty on a voluntary or involuntary basis in one of the Uniformed Services. It includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period of time for which a person is absent from a position of employment with the University for the purpose of an examination to determine the fitness of the employee to perform any such duty.

2.03 "Notice of Service" means any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by an employee who will perform such service or by the uniformed service in which such service is to be performed.

SCOPE

3.01 This policy applies to all OSU campuses and all other locations that have regular employees who serve in the Uniformed Services. It does not apply to students, independent contractors, or temporary employees.

POLICIES AND PROCEDURES

4.01 Leave of Absence for Military Service

- A. All regular employees are entitled to leaves of absence from their employment at OSU in order to engage in military service as is authorized by federal law without loss of status or seniority. Such leave is permitted regardless of whether the leave is voluntary or involuntary in nature. In ordinary circumstances, the maximum amount of such leave, in the aggregate, will be five (5) years in duration. Exceptional circumstances may occur in which leave for more than five years in the aggregate may be required. Unit supervisors should consult with OSU Human Resources in such cases.
- B. Employees engaging in military service are required to give notice of such service in advance in writing or orally to their immediate unit supervisor, either in person or through an appropriate officer of the uniformed service in which the service will be performed, except in extraordinary circumstances. No advance notice is required if the giving of such notice is precluded by military necessity (as per regulations prescribed by the Secretary of Defense) or, under all of the relevant circumstances, the giving of such advance notice is impossible or unreasonable. In all instances, employees engaging in military service must submit copies of official written orders issued by the proper military authority to their unit supervisor.

4.02 Military Leave Pay/Use of Annual Leave

- A. Employees engaging in military service as set forth in this Policy shall be entitled to leave with pay during such period of service for the first thirty regularly scheduled workdays of such service during each federal fiscal year. The federal fiscal year begins on October 1.
- B. A leave of absence without pay shall be granted for the remainder of military service in excess of the first twenty or thirty scheduled workdays, as applicable, each federal fiscal year.
- C. Employees on military leave, on request, may choose to use up any accrued, unused annual leave that is available to them, but may not be required to do so.
- D. In all cases, appropriate leave forms must be filed. It is the responsibility of the unit administrator to maintain accurate records of military leave. When an employee

transfers from one administrative unit to another, the new unit administrator is responsible to obtain military leave records from the previous administrator.

4.03 Benefits While on Military Leave

- A. During a military leave of absence, certain benefit rights are protected. Details regarding specific rights should be obtained from OSU Human Resources.
- B. Subject to terms, conditions, and limitations (including war exclusion clauses) of the applicable benefit plans in which the employee is otherwise eligible, OSU will continue to provide coverage as long as law requires.
- C. Employees returning to work after a military leave of absence will be reinstated in benefit programs, where authorized by law.
- D. Upon returning to work, OSU will pay retirement contributions that would have been paid if the employee had remained an active employee during the leave without pay military status.

4.04 Leave Accrual and Seniority While on Military Leave

- A. Leave does not accrue during a leave of absence without pay.
- B. The continuous employment date will be maintained during periods of military leave to ensure that leave accrual rates and other benefits based on seniority remain uninterrupted, so long as the employee returns to work with OSU as required by law and this policy statement.

4.05 Reemployment Rights

- A. Upon completion of military service, employees who have been on military leave must notify their unit administrator of their intent to return to duty at OSU within the following time frames:
 - 1. **Fitness Examinations/Service Less Than 31 Days**
If an employee is absent from work at OSU due to the employee's being examined for the purpose of determining the employee's fitness to perform military service, or if an employee engages in military service for less than 31 days, the employee ordinarily must report to work on the first full regularly scheduled work period on the first full calendar day following the completion of such an examination or service of less than 31 days, plus the expiration of eight hours after a period allowing for transportation from the place of military service to the employee's home.
 - 2. **Service of More Than 30 Days But Less Than 181 Days**

If an employee engages in military service for more than 30 days but less than 181 days, the employee must submit a written application for reemployment with the unit administrator not later than 14 days after the completion of the period of military service.

3. Service of More Than 180 Days

If an employee engages in military service for more than 180 days, the employee must submit a written application for reemployment with the unit administrator not later than 90 days after the completion of the period of military service.

4. Hospitalization/Convalescence Due to Injury or Illness While In Military Service

In cases where the employee is hospitalized for or convalescing from an illness or injury incurred in or aggravated during the period of military service, the employee is not required to return to work until the end of the period that is necessary for the employee to recover from that illness or injury, such period ordinarily not to exceed two years.

5. Extraordinary Cases Beyond the Employee's Control

a. All of the requirements in this Section 4.05(A) pertaining to the time frames ordinarily expected of an employee in returning to work are extended if returning to work or submitting an application to return to work within the normal time periods is impossible or unreasonable through no fault of the employee. In such instances, the time periods referred to in this Section shall be extended to the next full calendar day when such a return to work or submission of an application to return to work becomes reasonable.

b. In instances where an employee is convalescing from an injury or illness while in military service, and returning to work is impossible or unreasonable within the normal two-year time period, the two-year time period shall be extended by the minimum time to accommodate circumstances beyond the employee's control which make the reporting within the period impossible or unreasonable.

B. Employees who have been on military service and who fail to report back to work or submit a written application for reemployment are subject to the University's regular policies which allow an employee to be separated from employment if absent without excuse for three consecutive days, except in instances where returning to work is unreasonable or impossible due to no fault of the employee, as set forth in Section 4.05(A)(5).

C. Employees who are honorably discharged from their period of military service will be reinstated to active employment with OSU, provided that they have fulfilled the requirements of this policy statement and all applicable federal laws. Reinstatement will be in positions of like seniority, status and pay, or the nearest approximation consistent with the circumstances in each case. However, reemployment is

contingent upon the employee's continued qualification to perform the duties of the job, and no change in circumstances that would make employment unreasonable or impossible.

4.06 Special Rules Regarding Separation From Employment After Military Service

- A. Employees who return to work after engaging in qualified military service lasting more than 30 days may not be separated from employment for any reason other than cause for certain periods of time after returning to work.
- B. Employees who serve more than 30 days but less than 181 days of military service may not be separated from employment except for cause for a period of 180 days after returning to work
- C. Employees who serve more than 180 days of military service may not be separated from employment except for cause for a period of one year after returning to work.

4.07 Employees Paid By Temporary Grants or Contracts Employees paid by a grant or contract that expires during a period of military leave may have reemployment rights in certain circumstances. Reemployment rights are situational, depending upon the individual case facts, such as a history of grant or contract renewal. Contact OSU Human Resources for a specific determination in instances involving employees paid under a grant or contract.

4.08. Funding of Pay and/or Benefits for Employees Paid Through Grants, Contracts, or Programs with Outside Sponsors or Granting Agencies

- A. Employees whose positions are funded in part or in total through grants, contracts, or programs with outside sponsors or granting agencies are eligible under the terms of this policy.
- B. Should employees use any pay and/or benefits as set forth in this policy and the grant or contract forbid to reimburse the university for such paid expenses, the primary department, college, or division of the employee will be responsible for the payment.
- C. Once the department has determined that a grant or contract will not reimburse the university for paid leave and/or benefits, the department must make budget adjustments or other changes to remain in compliance with the terms of the grant or contract.

4.09 Reservation to Alter Policy

Oklahoma State University reserves the right to change this policy and procedure letter or any portion thereof at any time without any prior notice.

4.10 This policy replaces applicable portions of 3-0705 Attendance and Leave for Classified Staff adopted July 1, 1970, with the latest revision March 23, 1998, and Attendance Leave for Administrative/Professional Staff adopted September 1972.

Revised: May 2007
June 2006
October 2005
April 6, 1998