2423 – Military Leave

The College is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is the College's practice that no employee or prospective employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, promotion, or other benefit of employment on the basis of such membership. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised the person's rights under applicable law or this procedure. If any employee believes that the employee has been subjected to discrimination in violation of this procedure, the employee should immediately contact the Office of Human Resources.

Eligibility

Employees taking part in a variety of military duties (voluntary or involuntary) are eligible for benefits under this procedure. Such military duties include leaves of absence taken by members of the uniformed services, including Reservists, National Guard members 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. Subject to certain exceptions under the applicable laws, these benefits are generally limited to five years of leave of absence.

Procedures for All Military Leave

1. Unless military necessity prevents it, or is otherwise impossible or unreasonable, an employee should provide the employee's immediate supervisor with notice of the need for leave as far in advance as is reasonable under the circumstances. Written notice is preferred, but not required under the law or this procedure.
2. To request a temporary or extended military leave of absence, the employee should, generally obtain a Request for Military Leave of Absence Form from the Office of Human Resources. However, a written application is not required under the law or this procedure.
3. Human Resources will review and sign the Request for Military Leave of Absence Form, collect any applicable insurance premiums from the employee, generate other applicable documents, process accordingly, and submit a copy of the form to the President for approval.
4. Employees on temporary or extended military leave may, at the employee's option, use any or all accrued paid vacation leave or personal leave during the employee's absence.
5. When the employee intends to return to work, the employee must make application for reemployment to Human Resources within the application period set forth below.
6. If a supervisor finds out the supervisor's employee will not be returning to work, the supervisor must notify the Office of Human Resources so that appropriate action may be taken.

Benefits[1]

If an employee is absent from work due to military service, benefits will continue as follows:

1. If an employee is absent from work due to military service, the employee has the right to elect continuation coverage for a period of up to twenty-four (24) months if such Level I or Level II health plan would otherwise be lost as a result of such military service. The employee's right to continue coverage is subject to the following:
    a. *Payment of Premium.* The employee must pay the applicable premium for any USERRA continuation coverage. For a leave of absence for thirty (30) days or less, the employee will not be required to pay more than what they would have paid had they not been on leave. For a leave of absence of more than thirty (30) days, the employee may be required to pay up to 102% of the applicable premium under either the Level I or Level II health plans.
    b. *Exclusions or Waiting Period Upon Reinstatement.* The Level I or Level II health plan may impose a pre-existing condition exclusion or waiting period for coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, the employee's performance of qualified military service.
    c. *Failure to Apply for Reemployment.* Following completion of the employees military service, the employee's right to continue coverage under USERRA will end if the employee does not apply for reemployment within the applicable time period set forth in USERRA (43 U.S.C. 4312(c)).
2. Aflac-An employer must hold a job for an employee on military leave for five years. If we are notified when the leave of absence begins and then within 31 days of the employee's return to work, we will gap the coverage and reinstate without requiring evidence of insurability.
3. If the primary insured is called to active full-time military service and is granted a military leave of absence in writing, coverage may be continued for up to 12 weeks. If the leave ends before the agreed upon date, this continuation will cease immediately. With the exception of nonpayment of premium, if coverage under the policy ends, the Hartford Life Insurance Company basic and supplemental group term life coverage can be converted into an individual conversion policy (with the exception of Accidental Death and Dismemberment Benefits) without providing Evidence of Insurability.
4. Employees do not accrue vacation leave, personal leave or sick leave while on a military leave of absence.
5. In some situations, Kansas law allows the KPERS Retirement System to grant service credit for active military service at no cost to the employee. The employee must be employed in a covered position immediately before leaving for military duty, return to covered employment with any participating employer within one year of discharge (or two years, if disabled in the line of duty), and be off the College's payroll during this time (after discharge and before return to covered employment) to receive granted service credit. Once the employee returns to covered employment, the employee will need to provide a copy of the employee's DD-214 military papers showing the period of military duty. Granted military service is limited to five years. The employee can purchase up to six years of military service regardless of how many years are granted. When the member returns from military leave, the member must reapply if wanting to purchase the remaining service.

[1] Please note: If there is ever an occasion when information in the Benefits section of this procedure conflicts with information provided by a benefit carrier, the benefit carrier's information takes precedence.

6. KPERS basic group life insurance coverage continues during active military duty, paid from the KPERS fund.
7. KPERS optional group life insurance coverage continues for 16 months during military leave. After 16 months, the employee must convert or port to keep coverage. If the employee returns within 5 years, coverage is reinstated even if the employee did not elect continuation coverage.
8. No KPERS disability benefit will be paid for disabilities caused or contributed to by service in the Armed Forces, National Guard, or military reserves of any country or international authority.
9. If the primary insured is called to active full-time military service and is granted a military leave of absence in writing, coverage may be continued for up to 12 weeks. If the leave ends before the agreed upon date, this continuation will cease immediately. With the exception of nonpayment of premium, the Hartford Life Insurance Company voluntary supplemental group life coverage can be converted into an individual conversion policy (with the exception of Accidental Death and Dismemberment Benefits) without providing Evidence of Insurability.

Reemployment

Upon an employee's prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending upon the employee's period of military service:

1. *Less than 91 days of military service* - (i) in a position that the employee would have attained if employment had not been interrupted by military service; or (ii) if found not qualified for such position after reasonable efforts by the College, in the position in which the employee had been employed prior to military service.
2. *More than 90 days and less than 5 years of military service* - (i) in a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status and pay, the duties of which the employee is qualified to perform; or (ii) if proved not qualified after reasonable efforts by the College, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
3. *Employee with a service-connected disability* - if after reasonable accommodation efforts by the employer, an employee with a service-connected disability is not qualified for employment in the position the employee would have attained or in the position that the employee left, the employee will be employed in (i) any other position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the College or (ii) if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

Application for Reemployment

An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, submit an application for reemployment according to the following schedule:

1. *If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service)* - the employee must report for reemployment at the beginning of the first regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.

2. *If service is for 31 days or more but less than 181 days* - the employee must submit an application for reemployment with Human Resources no later than 14 days following the completion of service.
3. *If service is over 180 days* - the employee must submit an application for reemployment with Human Resources no later than 90 days following the completion of service.
4. *If the employee is hospitalized or convalescing from a service-connected injury* - the employee must submit an application for reemployment with Human Resources no later than two years following completion of service.

Exceptions to Reemployment

In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if any of the following conditions exist:

1. The College's circumstances have so changed as to make reemployment impossible or unreasonable. A reduction-in-force (position elimination or layoff) that would have included the employee would be an example.
2. Reemployment would pose an undue hardship upon the College.
3. The employee's employment prior to the military service was merely for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.
4. The employee did not receive an honorable discharge from military service.

Documentation upon Return: 31 or More Days of Military Service

An employee's manager will, upon the employee's reapplication for employment, request that the employee provide the College with military discharge documentation to establish the timeliness of the application for reemployment, the duration of the military service, and the honorable discharge from the military service.

General Benefits upon Reemployment

Employees reemployed following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. An employee's time spent on active military duty will be counted toward the employee's eligibility for FMLA leave once the employee returns to the employee's job at the College. Additionally, upon reemployment, a covered employee will not be discharged except for cause for up to one year following reemployment.

Contact(s): Director of Human Resources

Related Form(s): Request for Military Leave of Absence Form; Application for Reemployment

References: Society for Human Resource Management

Relevant Policy or Procedure(s): 1410 – Employee Leave

Approved by: President
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