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 his or her rights under this procedure. If any employee believes that he or she has been subjected to discrimination in violation of this procedure, the employee should immediately contact the Office of Human Resources.

Temporary (Two-Week) Military Leave

In addition to the rights and benefits provided to employees taking Extended Military Leave (as described in this procedure), eligible employees who must be absent from their job for a period of not more than ten working days each year in order to participate in temporary military duty are entitled to as many as ten days unpaid military leave. Written verification of the need for leave is required prior to leave being granted. All benefits will continue during an employee's temporary military leave.

All Other (Extended) Military Leave

Employees directed to participate in extended military duties in the U.S. Armed Forces that exceed ten working days will be placed on an unpaid military leave of absence status for a period of as long as five years and will be entitled to the rights and benefits described below, subject to the procedures outlined below. Written verification of the need for leave is required prior to leave being granted.

Procedures for All Military Leave

1. The employee will provide his or her immediate supervisor with written notice and verification of the need for the leave that the employee will be engaging in military service, including, where feasible, a copy of the orders directing the military duty, unless the employee is prevented from doing so by military necessity or the giving of notice is otherwise impossible or unreasonable. Employees are requested to provide such notice within 30 days of active military service. Failure to provide adequate notice may render the employee ineligible for the rights and benefits described in this procedure.

2. To request an extended military leave of absence, the employee should, unless prevented from doing so by military necessity or the giving of notice is otherwise impossible or unreasonable, submit an "Employee's Active Duty Absence Notification Letter to Employer" letter to the Office of Human Resources.

3. Human Resources will review and sign the "Employee's Active Duty Absence Notification Letter to Employer" letter, collect any applicable insurance premiums from the employee, generate other applicable documents, process accordingly, and submit a copy of the letter to the President's Office for Board action.

4. Employees on temporary or extended military leave may use any or all accrued paid vacation leave or personal leave during their absence.

5. When the employee intends to return to work, he or she must make application for reemployment by submitting to Human Resources the "Employee's Active Duty Return Notification Letter to Employer" letter within the application period set forth below.

6. If a supervisor finds out his or her 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. Employees going into or returning from military service may elect to continue health plan coverage as mandated by the Uniformed Services Employment and Reemployment Rights Act under the following circumstances. These rights apply only to employees and their dependents covered under the plan immediately before leaving for military service.

   A. The maximum period of coverage of a person under such an election shall be the lesser of:

      i. The 24 month period beginning on the date on which the person's absence begins; or

      ii. The day after the date on which the person was required to apply for or return to a position of employment and fails to do so.

   B. A person who elects to continue health plan coverage must pay up to 102% of the full contributions under the health plan, except a person on active duty for 30 days or less cannot be required to pay more than the employee's share, if any, for the coverage.

   C. An exclusion or waiting period may not be imposed in connection with the reinstatement of coverage upon reemployment if one would not have been imposed had coverage not been terminated because of service. However, an exclusion or waiting period may be imposed for coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, the performance of uniformed service.

2. When the primary insured is called to active duty, AFLAC premiums may be waived during the active duty period. For consideration of premium waiver, the primary insured must send written notice along with his or her deployment papers to AFLAC Policy Services. Accident and disability claims will be subject to the AFLAC coverage guidelines outlined in the primary insured's policy booklet. AFLAC will monitor the primary insured's status with premiums being waived on a month-by-month basis during the active duty period.

[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.

3. The basic and supplemental group term life premium must be paid and coverage may be extended to the end of the month following the month in which the leave begins. At the end of this period, a normal conversion option is available.

4. Employees do not accrue vacation leave, personal leave or sick leave while on a military leave of absence.

5. KPERS service credit is granted for up to five years of active military duty, if the time served is (a) "immediately preceded" by employment in a covered position or by the signing of a contract to become employed in a covered position, and (b) followed by return to covered employment in accordance with the "Application for Reemployment" section of this procedure. In order to receive service credit, the employee must provide a copy of his/her DD-214 form, showing the period of military service, which will accompany the KPERS-1 form submitted by the College.

6. KPERS basic group life insurance continues while an employee is on active military duty, at no cost to the employee.

7. KPERS optional life insurance continues for the first 16 months an employee is on active duty. Employees pay the premiums directly to the life insurance carrier after completing an Optional Group Life Insurance Continuation form within 30 days of the last day the employee is on the payroll. After 16 months, the employee has the option to convert to an individual policy. They can do this by completing the appropriate carrier conversion form and sending it to the carrier. Optional insurance coverage is reinstated if an employee returns to work in a covered position within five years, even if he or she did not choose to convert to an individual policy.

8. KPERS disability insurance terminates while an employee is on active military duty.

9. The voluntary supplemental group life policy will continue while an employee is on active military duty (with the exception of the Accidental Death and Dismemberment rider) as long as the employee continues to pay the overall (both employer and employee) premium rate while on a military leave of absence. The employee will need to complete the "Leave of Absence Rights" form designating his or her coverage choice.

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 the job the employee would have held had the employee remained continuously employed, so long as the employee is qualified for the job or can become qualified after reasonable efforts by the employer to qualify the employee; or (ii) in the position of employment in which the employee was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position described above after reasonable efforts by the employer to qualify the employee.

   If the employee cannot become qualified for either position described above (other than for a disability incurred in or aggravated by the military service) even after reasonable employer

efforts, the employee is to be reemployed in a position that is the nearest approximation to the positions described above which the employee is able to perform, with full seniority.

2. *91 or more days of military service* - (i) in the job the employee would have held had the employee remained continuously employed, or a position of like seniority status and pay, so long as the employee is qualified for the job or can become qualified after reasonable efforts by the employer to qualify the employee; or (ii) in the position of employment in which the employee was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status, and pay the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of the position described above after reasonable efforts by the employer to qualify the person.

   If the employee cannot become qualified for either position described above, the employee is to be reemployed in any other position that most nearly approximates the above positions (in that order) the duties of which the employee is qualified to perform, with full seniority.

3. *Disabilities incurred or aggravated while in military service* – (i) the employer must make reasonable efforts to accommodate an employee's disability so that the employee can perform the position that the employee would have held if the employee had remained continuously employed; or (ii) if despite reasonable accommodation efforts, the employee is not qualified for the position described above due to his or her disability, the employee must be employed in a position of equivalent seniority, status, and pay, so long as the employee is qualified to perform the duties of the position or could become qualified to perform them with reasonable efforts by the employer.

   If the employee does not become qualified for either position described above, the employee must be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the position in (ii) in terms of seniority, status, and pay.

<u>Application for Reemployment</u>

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 work period that begins on the next calendar day following completion of service, after allowance for safe travel home from the military duty location and an 8-hour rest period. 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. *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. 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.

3. *If service is over 181 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 disability incurred or aggravated during the period of military service*, the reporting or application deadlines are extended for up to two years. The two-year period will be extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable.

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 that would have included the employee would be an example.

2. 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.

3. The employee's separation from service was other than disqualifying under 38 USC Section 4304.

Documentation upon Return: 31 or More Days of Military Service

Upon the employee's application for reemployment, the employee shall provide the College with military discharge documentation that establishes: (1) the timeliness of the application for reemployment; (2) the employee has not exceeded the five-year service limitation; and (3) the employee did not receive a dishonorable discharge from military service.

If the required documentation is not readily available or doesn't exist, the College will reemploy the employee but should documentation become available that shows one or more of the reemployment requirements were not met, the College may terminate the employee.

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. In addition, an employee's time spent on active military duty will be counted toward their eligibility for FMLA leave once they return to their job at the College.

(Based on policy 1410; revised and approved by President on 8/3/09)