



POLICY MANUAL

BENEFITS

Number 359

Subject: Military Leave

Covered Employees: University Employees

Date of Origin: January 24, 1997

359.1 POLICY

This policy provides guidelines for the call to active duty of University faculty and staff who are members of any reserve branch of the United States Armed Forces or a National Guard unit. It also applies to any faculty and staff who are not reserve or guard members who may be called to active duty by the United States Armed Forces through any other means.

359.2 PROCEDURES

2.1 Annual Encampment

(1) University employees on leave for active duty at annual encampments or other required active duty training are entitled to a leave of absence with full pay for up to 11 working days per year. This leave will be paid in addition to any annual leave the individual may have accrued. The leave with pay provisions do not apply when an individual voluntarily seeks active duty in addition to the required annual encampment.

(2) A copy of the orders requiring the attendance of an eligible employee for military leave must be attached to the request for leave with pay.

(3) The provisions of this section are governed by 1953 Utah Code Annotated, Section 39-3-2.

2.2 Active Duty Beyond Annual Encampments

(1) Re-employment.

Faculty and staff who leave the University to enter active duty in the armed forces of the United States, voluntarily or involuntarily, are protected by the federal veterans' re-employment rights laws (Chapter 43, U.S. Code Title 38) and 1953 Utah Code Annotated, Section 39-1-36. To be eligible for the provisions of these laws, an employee must:

- (a) Leave a nontemporary position at the University.
- (b) Leave the University to go on active duty.
- (c) Remain on active duty no longer than five years.
- (d) Be discharged or released from active duty under honorable conditions.
- (e) Apply for re-employment with the University within 90 days after official separation from active duty. This deadline will be extended for up to one year following the release from duty if the employee is hospitalized for injuries resulting from service.

A person meeting the above criteria is entitled to return to the previous position, or a position of similar status, seniority, and pay. The person is to be restored as if he/she had been continuously employed by the University during the course of active duty, with no loss of promotion, pay increases, seniority, or other position attributes that would have occurred had the person remained employed. Tenure track faculty called to active duty will be granted a hiatus from their probationary period. A readaptation period of up to two years, as negotiated with the department head and dean, and approved by the Provost, will be granted to returning tenure track faculty before the reinstatement of the tenure clock.

(2) Retirement benefits.

Under Utah law, individuals whose employment is interrupted by military service must be given benefit accruals for the period of military leave. This situation is controlled by 1953 Utah Code Annotated, Sections 49-1-401 and 49-1-402. These sections state service in the armed forces of the United States is eligible for credit. Contributions must be made during the period of the official call to duty, or a contribution adjustment, including interest, made after the official call, but at least five years before the employee's retirement date. The individual must return to covered service (employment at the University) after receiving an honorable discharge from military service to qualify for the above-stated retirement credits.

Utah State University will make retirement contributions for employees called to active duty for up to five years at the contribution rate specified by state statute and based on the employee's compensation when he/she was called to military duty.

(3) Leave benefits.

Special military leave days with pay that are allowed in 2.1 of this policy may be used when active duty begins if those days have not already been used in the current year. If active duty continues into additional calendar years, the leave provided for in 2.1 will not be granted for those additional years. Annual leave may be taken according to existing University policy. Accrual of annual and sick leave ceases during leave without pay.

(4) Other benefits.

In the case of a call to active duty, the University will continue an employee's medical, dental, and life insurance benefits at the same level that was provided immediately before the call to active service, for 30 days after the employee begins active duty. Beyond this 30-day benefit continuation period, other basic employee benefits will be handled as they are for any other employee taking a leave of absence or using annual leave.

Leave with pay using annual leave allows for the continuation of all benefits as if the employee were still working. Leave without pay does not allow for the continuation of benefits paid by the University, but does allow the employee to continue insurance benefits by paying the premiums for such benefits under the COBRA continuation provisions of federal law.

359.3 RESPONSIBILITY

3.1 Office of Human Resources

Responsible for communicating and administering this policy in accordance with federal and Utah law.

3.2 Employees

Responsible for filling out Request for Leave Forms and providing the necessary documentation to their supervisors when requesting a Military Leave of Absence.