

Leaves for Military Duty and Leaves for Military Families

HR-05-60



About This Policy

Effective Date:

08-01-2007

Last Updated:

02-20-2017

Responsible University Office:

University Human Resources

Responsible University Administrator:

Vice President and Chief Financial Officer

Policy Contact:

[University Human Resources](#)

hrpolicy@iu.edu

Related Information

- * [IU Human Resources Reemployment Provisions policy](#)
- * [IU Human Resources Family and Medical Leave Act \(FMLA\) Rights policy](#)
- * [Veterans' Employment and Training Service \(VETS\) has a comprehensive Web site with announcements and the latest USERRA information.](#)
- * [USERRA Advisor is an interactive online guide](#)
- * [Military Leaves at Indiana University](#)

Related Forms

- * [Leaves for Military Families Employee's Request Form](#)
- * [Affidavit of Domestic Partnership](#)

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[Scope](#)

This policy applies to all Staff and Temporary employees.

Policy Statement

1. Federal law protects the employment of employees who have voluntarily enlisted in or who have been inducted into or called to duty by the uniformed services of the United States. The protections include leaves of absence for training and active duty and continuation and restoration of certain benefits.
2. Indiana law allows family members of individuals on active duty in the uniformed services to take temporary leaves of absence within specified time frames.

Reason For Policy

This policy provides University managers and supervisors with guidelines and procedures for leaves for military duty and leaves for military families for Staff and Temporary employees.

Procedure

1. 15-day paid leave
 - a. An eligible staff employee is entitled to a paid leave of absence for military service. The employee receives pay for all scheduled workdays during the service period.
 - i. This paid leave will start on the first date shown on the military order and will continue until 15 consecutive workdays have elapsed—or until the employee returns to work—whichever occurs first.
 - ii. Paid leave will not exceed 15 paid days in any military year (October 1 through September 30).
 - b. An employee is entitled to this 15-day paid leave for active duty, training duties, or reserve call-ups for which the employee has military orders.
2. Weekend training
 - a. Normally, the paid military leave of absence does not apply to training drills regularly scheduled on the weekend. To receive pay for weekend drills, an employee must meet all three criteria listed below. Any such paid time will be deducted from the 15-day paid leave annual allotment in paragraph 1.a.ii above.
 - i. The employee's regular work schedule must include Saturdays or Sundays.
 - ii. The employee must be scheduled to work the weekend of the training.
 - iii. The employee must be ordered for military training.
3. Service in excess of 15 days
 - a. If an employee incurs absences for more than 15 days service, he or she may do the following:
 - i. Charge the absence to accrued time off (PTO, vacation, compensatory time, or holidays) until these categories of time off are exhausted. When the employee has used all of these categories of accrued time off, he or she is to go on a leave of absence or separate.
 - ii. Go on a leave of absence or separate.
 - b. Using accrued time off will not count against the maximum amount of PTO or vacation allowed in a year.
4. Submitting military service orders with the payroll voucher
 - a. An employee should submit written military orders to their department in advance of the absence or as soon as they are available.
 - b. Departments must indicate the number of hours charged to military service.
5. Extended active military duty

- a. The Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Code of Federal Regulations (CFR), Part 1002 of Chapter 11 of Title 20, establish rights for employees who serve or have served in the uniformed services of the United States.
- b. As soon as a supervisor or department head is informed or becomes aware that an employee is going to leave or has left for military service, the supervisor or department head must consult with the campus Human Resources office to insure University compliance with USERRA and the regulations.
- c. A military leave of absence without pay shall be granted for an employee in a position other than one that is temporary.
 - i. The regulations define temporary positions as those that exist for a brief, non-recurrent period with no reasonable expectation that the employment would have continued for a significant period.
 - ii. If the employee explicitly states at the start of, or at any time during, the military leave that he or she does not intend to return to work at the university, the department may separate the employee; regardless, section J below is still applicable.
- d. To be eligible, an employee must meet one of the following criteria:
 - i. The employee is inducted through Selective Service.
 - ii. The employee enlists voluntarily.
 - iii. The employee is called through membership in the uniformed services.
- e. The limit on the cumulative time away from work at the university for military service and still retain the USERRA rights is five years.
- f. The military leave of absence covers the dates that the employee is actively performing service. The five-year limit may also extend to a later date when the employee is able to obtain a release from active duty. Time between completing the uniformed service and reporting back to work or requesting to return does not count against the five year limit. The law provides for other exceptions which are to be discussed with the campus Human Resources Office if a case arises.
- g. An employee who completes a period of uniformed service and requests (orally or in writing) to return to work is to be returned within two weeks of the request if he or she meets the following criteria:
 - i. The employee was discharged from or completed the period of military service under honorable conditions.
 - ii. The employee requests to return to work within the time limits specified in the **Reemployment Provisions** policy.
 - iii. The cumulative period of time away from the university in military service does not exceed five years, or if it does, the exceptions provided for in USERRA apply.
- h. The employee meeting these criteria shall be returned to the status that he or she would have enjoyed with reasonable certainty as if the military absence had not occurred. This includes the completion of any evaluation period that would have expired during this time.
- i. See the **Reemployment Provisions** policy for a fuller description of the position, pay, and benefits that an employee who meets these criteria is eligible to receive when he or she returns from military service.
- j. The right to return to work exists even if the employee gave an explicit, written statement at the start or during the leave that he or she did not intend to return to work at the university and resigned or was separated based on this statement.
- k. The right to return to work exists whether the employee was placed on a leave of absence or separated employment for military service.
 - l. An employee returned to work under the provisions of USERRA may not be terminated except for cause for 180 days after his or her date of return if the most recent period of uniformed service was less than 181 days or for one year after the date of return if the most recent period of uniformed service was more than 180 days.
- m. An employee requesting to return to work who did not have an honorable discharge will be reviewed on an individual basis.

6. Leaves for Military Families

- a. An employee who is a family member of a person on active duty in the United States Armed Forces is eligible for military family leave under the Indiana Military Family Leave Act, www.in.gov/legislative/ic/code/title22/ar2/ch13.html.

- b. The Act provides for unpaid leave for a total of 10 workdays per calendar year during one or more of the following periods:
 - i. Within the 30-day period before a family member begins active duty,
 - ii. During the period that a family member is on active duty, or
 - iii. During the 30-day period following a family member's return from active duty.
 - iv. The time can be taken in full in one period or split amongst the periods.
 - v. An employee is eligible for such leave for each family member on active duty.
- c. To qualify as a family member, the employee must have one of the following relationships to the person on active duty:
 - i. Spouse
 - ii. Parent (biological, adoptive, foster, step, or court-appointed guardian or custodian)
 - iii. Grandparent (biological, adoptive, foster, or step)
 - iv. Child (biological, adopted, foster, or step)
 - v. Sibling (biological, adoptive, foster, or step)
- d. Time off for employees who are other family members is discretionary and subject to supervisory approval.
- e. Indiana University extends this benefit to a same sex domestic partner as qualified by the University's [Affidavit of Domestic Partnership](#).
- f. A leave request that meets the family member and active duty criteria above must be granted unless the employee:
 - i. Has not been employed for at least 12 months and worked at least 1,500 hours in the 12 months immediately preceding the day that the military family leave begins, or
 - ii. The employee has used all 10 workdays for that family member for the calendar year.
- g. The Military Family Leave Act does not provide additional time off with pay. A Staff employee must use accrued Vacation or PTO to cover the leave before taking any of the time off without pay or using any other accrued time off.
 - i. Vacation or PTO time used during a military family leave will not count towards annual limits on the use of such time.
 - ii. Time off without pay during a military family leave is an excused absence with benefit accrual and will not count in any attendance-related policies.
 - iii. If the employee does not have sufficient accrued vacation or PTO to cover the leave, any other accrued time off or absence without pay is to be used at the employee's choice.
- h. An employee is to provide written notice, including a copy of the active duty orders, if available, at least 30 days before the date on which the leave is to begin, or as soon as possible if the active duty orders are issued less than 30 days before the date the leave is to begin.

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Definitions

1. The regulations define *temporary positions* as those that exist for a brief, non-recurrent period with no reasonable expectation that the employment would have continued for a significant period.
2. *Uniformed services* are defined as the Armed Forces; the Army National Guard; the Air National Guard; the commissioned corps of the Public Health Service; and, for USERRA coverage only, service as an intermittent disaster response appointee upon federal activation of the National Disaster Medical System (NDMS) or attending NDMS authorized training in support of its federal mission.
3. Under leaves for military families, *active duty* is defined as full-time service on active duty orders in the armed forces of the United States or the Indiana Army or Air National Guard for a period that exceeds 89 consecutive calendar days.
4. Under leaves for military families, *an armed force of the United States* means the active or reserve components of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Merchant Marine.

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Sanctions

Violations of University policies will be handled in accordance with applicable University policies and procedures; which may include disciplinary actions up to and including termination from the University.

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Additional Contacts

Policy Interpretation

UHR

812-856-6047

hrpolicy@iu.edu

Policy Interpretation

Campus HR office

Various

HR Records

UHR

812-855-2172

recben@iu.edu

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History

February 2017

Two policy definitions updated to clarify that the terms only apply to the leaves for military families.

October 2016

Updated Procedures 5.c. This includes language addressing a department's ability to separate an employee from the University when they explicitly indicate that they are not returning to their position upon completing their military service.

This policy updates Leaves for Military Duty and Leaves for Military Families: AFSCME (BL, IN, SB) 5.6, CWA 12.4, PA/SS 10.10, Police (BL) 5.10, Police (IN) 10.8, Police (SB) 5.7, and Temporary 6.3