

SYSTEM REGULATION

31.03.06 Military Leave and Service

August 15, 2006

Supplements System Policy 31.03

1. ADMINISTRATIVE

1.1 A System employee may volunteer for or be called to active duty in the state or federal reserve military forces or may be required to report for military training. The System must allow an employee to take military leave in the situations described below and must provide certain benefits and job protection to an employee on military leave.

1.1.1 The System will not deny hiring, retention in employment, promotion or other advantage of employment to any person because of any obligation as a member of the state military forces or a reserve component of the United States Armed Forces.

1.1.2 An employee must give advance oral or written notice to the employee's supervisor of any impending service unless notice cannot be given because of military necessity or notice is impractical. This notice may be given by an appropriate military officer.

1.1.3 The System will not request the deferment from military service of an employee except when the absence of the individual would have a serious detrimental effect on the System member's work. The Chancellor must approve all requests, and any such request will not be for more than six months.

1.2 An employee who, before leaving for state or federal military service, provides written notice of intent not to seek re-employment is not eligible for the rights and benefits described herein, except the right to be restored to employment. However, the member must ensure the employee is aware of the rights and benefits he or she is forfeiting.

2. STATE EMERGENCY MILITARY DUTY

An employee who is a member of the Texas State Guard or National Guard called to active duty by the Governor because of a state emergency is entitled to emergency leave with pay. This leave will not be charged against the employee's 15 days of military training or duty leave. A member of the guard called to active state duty is entitled to the same rights and re-employment protections that apply to members of the federal armed forces who are called to active duty.

3. STATE AND FEDERAL MILITARY TRAINING AND FEDERAL DUTY

3.1 Paid Leave for Authorized Training and Duty

3.1.1 An employee, including a graduate assistant or student worker, who is a member of the state military forces or of any reserve component of the Armed

Forces is entitled to paid leave for training or duty ordered or authorized by proper authority. Each employee may receive up to 15 working days each federal fiscal year (October 1 - September 30) for this purpose. The days need not be consecutive.

- 3.1.2 An employee whose employment was scheduled to end before military leave began or who would not have otherwise been scheduled to work during the military leave will not be eligible for military leave.
- 3.2 After exhausting the 15 days of paid leave, any employee, except one in a temporary position, will be granted an unpaid military leave of absence for up to five cumulative years or a longer period if required by law. An employee may choose to use vacation or compensatory time in place of unpaid leave.
 - 3.2.1 A temporary position is a position that is brief or nonrecurrent and cannot reasonably be expected to continue indefinitely or for a significant period. This includes an employee being paid from a grant that will expire before the military service ends as well as one in a position that requires student status.
 - 3.2.2 The service may be active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty or absence for a military fitness exam.
- 3.3 When activated to military service during a national emergency, an employee who was eligible to accrue vacation and/or had a compensatory time balance immediately before going on military leave may choose to use accrued vacation and state and federal compensatory time all at once or incrementally while on unpaid military leave.
- 3.4 When activated to military service during a national emergency, an employee who would otherwise be on unpaid military leave and whose gross military pay is less than his or her gross state pay will be granted emergency leave in the percentage of time necessary to make up the difference between military pay and state pay. For this purpose, gross military pay does not include any allowances the employee receives for service in a combat zone, family separation or hazardous duty.
- 3.5 An employee is not eligible for the benefits described in 3.4 above or for incremental use of leave or compensatory time for periods of military training.
- 3.6 Leave and Compensatory Time
 - 3.6.1 An employee granted military leave will retain vacation and sick leave accrued as of the beginning of the leave, but will not accrue vacation and sick leave for any full calendar month of unpaid leave. An employee who was eligible for leave accrual immediately before going on military leave will accrue vacation and sick leave at the same rate as before the leave for any month of military leave in which he or she receives any amount of state pay.
 - 3.6.2 An employee will receive state service credit for vacation accrual and longevity purposes for the military service if the employee returns to active state employment after military service without a break in service.

3.6.3 The System member must provide a statement showing the employee's state compensatory time balance to an employee called to military service. The supervisor must accommodate the employee's request to use state compensatory time before it expires.

3.7 Benefits

3.7.1 An employee on military leave or a former employee governed by Section 5 is entitled to the same benefits as employees on other types of leave. An employee may make retirement program contributions for the period of military service after his or her return to work.

3.7.2 An employee who was eligible for the state insurance contribution immediately before going on military leave will receive the state insurance contribution for any month of military leave in which he or she receives any amount of state pay.

3.7.3 The member human resources office, or other office designated by the human resources office, will review System health insurance issues with an employee before he or she leaves for military service. The review will, at a minimum, cover what the employee needs to do to maintain System health coverage, how health coverage is affected by paid or unpaid leave, and how the employee can pay any premium required to maintain coverage.

3.8 Restoration to Employment

3.8.1 In most cases, an employee will be restored to active employment after military leave and no break in service will occur if the employee applies for restoration within 90 calendar days of discharge.

3.8.2 To qualify for restoration of employment, the employee must be gone no more than five years and must provide evidence of discharge or release under honorable conditions. In most cases, an employee returning from military leave should be restored to the position and status he or she would have had if employment had been continuous if the employee is qualified to perform the duties of that position.

3.8.3 An employee who is restored to active employment after returning from military leave may not be discharged from his or her position without cause (cause includes a reduction in force) within one year after returning to work.

4. SCHEDULING TRAINING

4.1 The work schedule of an employee who is a member of the National Guard or any reserve component of the Armed Forces of the United States will be adjusted so that two of the employee's nonwork days each month coincide with two days of military duty for the employee.

- 4.2 An employee who has a budgeted appointment of less than 12 months is expected to fulfill the training requirements during the period the employee is not scheduled to work. If the training cannot be arranged during that time, the employee must include a statement explaining the circumstances with the leave request.

5. ENTERING ACTIVE FEDERAL MILITARY SERVICE

- 5.1 If an employee enters active federal military service (not through the reserves or guard), his or her employment will be terminated.
- 5.2 The employee is eligible for the rights and benefits described in Sections 3.6.2 and 3.7.1 above, but is not eligible for other rights and benefits extended to a member of state military forces or a reserve component of the United States Armed Forces called to active duty.
- 5.3 In most cases, an employee who enters active federal military service will be re-employed after military leave and will not have a break in service if the employee is gone for no more than five years and applies in writing for re-employment within 90 days after completion of military service. The employee must provide evidence of discharge or release under honorable conditions. An employee returning from military service should be restored to the same or a similar position and status he or she would have had if employment had been continuous if the employee is qualified to perform the duties of that position.
- 5.4 An employee who is restored to active employment after returning from military service may not be discharged from his or her position without cause (cause includes a reduction in force) within one year after returning to work.

CONTACT OFFICE The System Human Resources Office