



Applies to: Faculty and staff

### Responsible Office

Office of Human Resources

### POLICY

Issued: 10/01/1973

Revised: 01/03/2021 Not in effect until [Workday](#) HR and Payroll are implemented at Ohio State. For information only.

Current Policy: [Military Leave and Reemployment Rights, 6.35](#)

The university supports its faculty and staff who are members of **uniformed services** with transparent and equitable employment and leave practices, pursuant to the [Uniformed Services Employment and Reemployment Rights Act \(USERRA\)](#) and Ohio Revised Code §5923.05. To the extent this policy conflicts with provisions of federal or state law, or any amendments thereto, the provisions of federal and applicable Ohio law will prevail.

### Purpose of the Policy

To provide eligible faculty and staff military leave benefits and reemployment rights in accordance with federal and state law, including the [USERRA](#).

### Definitions

Term	Definition
Allowances	Monies provided for specific needs, such as food or housing, in addition to an individual's basic military pay.
Calendar year	The year beginning on the first day of January and ending on the last day of December.
Employee benefits	The terms, conditions or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest (including wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employee policy, plan or practice. This includes rights and benefits under a pension plan, a health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacation and the opportunity to select work hours or location of employment.
Full-time equivalency (FTE)	The percentage of full time hours (40 hours per work week) worked during the period covered by a given position (for example, 10% full-time equivalency [FTE] equals four hours of work per work week).
Intermittent position	A classified or unclassified position which serves at the discretion of the employing unit and for which the employee works irregular hours or days on an as-needed basis. The employee must work less than 50% FTE over the course of any 12-month period.
Presidential or Congressional orders	Calls to active duty issued by the President or Congress normally associated with a national military action.
Regular call-ups	Calls to active duty issued by the Governor, National Guard, or Department of Defense normally associated with a state or federal requirement for training or active duty for short periods. Examples include summer or weekend training, professional development, unit deployment, and natural disasters.
Uniformed services	The U.S. Armed Services (including the Coast Guard), the Ohio organized militia, the commissioned corps of the Public Health Service, the National Guard (when engaged in active duty for training, inactive duty for training, or full-time National Guard duty), and any other category of persons designated by the President in time of war or emergency.
University health benefits	The medical (including prescription drug and health reimbursement arrangement), dental, vision, and healthcare flexible spending account benefits sponsored and maintained by the university for the benefit of eligible employees and their eligible dependents.

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### Policy Details

#### I. General Provisions

- A. Faculty and staff, full-time or part-time at any **full-time equivalency (FTE)**, who are members of the uniformed services, are entitled to paid military leave for up to 22 eight-hour workdays or 176 hours within one **calendar year**, and unpaid military leave for up to a maximum of five years unless special orders are issued by the President of the United States or the United States Department of Defense. The following exception is applicable to staff in **intermittent positions**:
  - 1. Staff in intermittent positions are only entitled to paid military leave during times when they were already scheduled to work. If they were not scheduled to work, then they are only eligible for unpaid military leave.
- B. Military leave does not affect vacation or sick leave balances in effect at the time of commencement of the leave.
- C. Military leave is granted for both voluntary and mandatory uniformed services.
- D. Pay and benefits vary depending on whether the service is a result of a **regular call-up** or a call-up due to **Presidential or Congressional order** or order of the Governor pursuant to Ohio Revised Code §5919.29.
- E. An employee who requests military leave must provide reasonable advance written notice of such active military leave to the university. Such advance notice is not required when it is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable.

#### II. Military Leave Due To Regular Call-Up

- A. Regular call-up of 30 consecutive days or less
  - 1. Individuals, other than staff in intermittent positions, are entitled to receive paid military leave for up to 22 eight-hour work days or 176 hours for each calendar year. Staff in intermittent positions are entitled to paid military leave as outlined in Policy Details I.A.1.
  - 2. **University health benefits** are continued for the individual and covered dependents.
- B. Regular call-up exceeding 30 consecutive days
  - 1. Individuals must first exhaust their annual military leave of 22 eight-hour work days or 176 hours. When those days/hours have been exhausted, individuals are entitled to receive additional leave without pay for a maximum of five years.
  - 2. Individuals on active duty may elect to continue their existing coverage under university health benefits for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Regardless of whether an individual elects to continue their university health benefits, individuals are entitled to reenroll in university health benefits upon return from military leave without any waiting period.
- C. Retirement benefits, including contributions and purchasing service credit, during and upon return from military leave will be in accordance with the applicable plan document.
- D. Notwithstanding anything herein to the contrary, all benefit plans, policies, and programs will be administered in accordance with the terms of such plan, policy, or program and with applicable law. Nothing in this policy will be construed to limit the right of the university to modify, amend, or terminate any benefit plan, policy, or program.

#### III. Military Leave Due to Presidential or Congressional Order or Order of the Governor Pursuant to Ohio Revised Code §5919.29

- A. Pay and benefit entitlements are the same as for a regular call-up of 30 consecutive days or less. See Policy Details II.A.
- B. For call-ups that exceed 30 consecutive days:
  - 1. The university will provide the individual a monthly pay differential equal to the difference between the current gross monthly wage or salary and the sum of the gross military pay and **allowances**.
  - 2. Individuals on active duty may elect to continue their existing coverage under university health benefits for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Regardless of whether an individual elects to continue their university health benefits,

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individuals are entitled to reenroll in university health benefits upon return from military leave without any waiting period.

3. Retirement benefits are the same as stated in Policy Details II.C.

#### IV. Rights upon Return from Military Leave or Reemployment

- A. All returning faculty and staff, regardless of FTE and including staff in intermittent positions, may be eligible for reemployment.
- B. Positions for which a returning individual will have reemployment rights are based on the length of the intervening military leave.
  1. A returning individual whose intervening military leave was fewer than 91 days is to be promptly reemployed in the position that the employee left.
  2. If the intervening military leave was for 91 or more days, the returning individual will have the same reemployment rights as persons with a shorter term of military leave, except that the university will have the additional option of providing employment in a position of like seniority, pay, and status for which they are qualified.
    - a. A person is "qualified" for a position if they have the ability to perform the essential tasks of the position as determined by the university.
    - b. The university will make reasonable efforts to update the skills of a returning individual who is not initially qualified for the position to which they are entitled, unless such efforts would create an undue hardship for the university.
- C. To be eligible for reemployment rights, individuals must have been issued a discharge or release under honorable conditions.
- D. Discrimination or retaliation for military participation is prohibited, regardless of whether an individual volunteers or is ordered to active military service.
- E. An individual's right to reemployment includes restoration of the **employee benefits** in effect at the time military leave began, as well as to employee benefits that began during the leave for which the individual would reasonably have become eligible. The individual must be in the same seniority, status, and pay that the employee would have achieved if they had not been called to active duty and had remained continuously employed with their employer. For example, if vacation accrual increases from two weeks to three weeks upon completion of five years of service, then a person who works for two years, serves two years on active duty, and then returns would be entitled to three weeks of vacation one year after reemployment.
- F. The [USERRA](#) does not create a system of seniority but simply recognizes any existing seniority systems that have been established by contract, custom, or practice. The university is not required to reemploy a person after military leave if:
  1. The university's circumstances have so changed as to make such reemployment impossible or unreasonable;
  2. Such reemployment would impose an undue hardship upon the university; or
  3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurring period.

### PROCEDURE

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#### I. Preparing for Military Leave

- A. An employee who seeks to take military leave must:
  1. Provide reasonable advance written notice of such active military leave to the university. Such advance notice is not required when it is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable;
  2. Submit a leave request and copies of official orders or other official documentation via Workday; and

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3. Submit the [Benefit Continuation during Unpaid Leave Election form](#) via employee self-service, as needed.
  - B. The employing unit must:
    1. Ensure the employee submits the leave request via Workday and [Benefit Continuation during Unpaid Leave Election form](#) via employee self-service.
    2. Consult with the Office of Human Resources as needed.
  - C. The Office of Human Resources must:
    1. Consult with employees and units regarding military leave as needed.
    2. Consult with the U.S. Armed forces regarding military rules, regulations, and administration as appropriate.
    3. Process submitted [Benefit Continuation during Unpaid Leave Election forms](#).
  - D. Integrated Absence Management and Vocational Services must:
    1. Consult with employees regarding military leave requests.
    2. Review and approve or disapprove military leave requests.
- II. Returning from Military Leave
- A. Upon returning from military leave, an individual must request a return from leave via Workday or military leave inquiry via employee self-service as follows:
    1. For service of 30 consecutive days or less, the employee must apply for reemployment. The individual must submit their application for reemployment at the beginning of the first full regularly scheduled work period. If the first regularly scheduled work period is within 8 hours of the individual's return from military leave, then the employee must apply for reemployment the following regularly scheduled work period.
    2. For service of 31 to 180 days the individual must apply for reemployment no later than 14 days after release from active service.
    3. For service of 180 days or more, the individual must contact the Human Resources Service Center no later than 90 days after release from active service to initiate return from military leave or to request reemployment.
    4. Failure to follow the return from military leave procedures in a timely manner does not mean that an individual forfeits their reemployment rights. Rather, the individual is subject to other university's rules and policies.
  - B. To be eligible for reemployment, the individual must provide documentation, via Workday or employee self-service, of a discharge or release from duty under honorable conditions.

### Responsibilities

Position or Office	Responsibilities
Employee	<ol style="list-style-type: none"> <li>1. Provide reasonable advance written notice of military leave.</li> <li>2. Submit military leave request, official orders/documentation, and Benefit Continuation During Military Leave Election form as outlined in the policy.</li> <li>3. Submit request for a return from leave via Workday or a military leave inquiry via employee self-service in a timely manner as outlined in this policy.</li> </ol>
Employing Unit	<ol style="list-style-type: none"> <li>1. Consult with Office of Human Resources as needed.</li> <li>2. Ensure employees submit requests for leave and Benefit Continuation during Unpaid Leave Election form.</li> </ol>
Integrated Absence Management and Vocational Services	<ol style="list-style-type: none"> <li>1. Review and approve or disapprove military leave requests.</li> <li>2. Consult with employees on individual leave requests.</li> </ol>
Office of Human Resources	<ol style="list-style-type: none"> <li>1. Consult with employees and units regarding military leave and U. S. Armed Forces regarding military rules, regulations, and administration.</li> <li>2. Process Benefit Continuation during Unpaid Leave Election forms.</li> </ol>

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### Resources

#### Forms

Benefit Continuation during Unpaid Leave Election form, [hr.osu.edu/wp-content/uploads/form-benefit-continuation-unpaid-leave.pdf](http://hr.osu.edu/wp-content/uploads/form-benefit-continuation-unpaid-leave.pdf)

#### Additional Guidance

Americans with Disabilities Act, [ada.gov](http://ada.gov)

Continuing Benefits While on Leave, [hr.osu.edu/wp-content/uploads/leave-absence-benefits.pdf](http://hr.osu.edu/wp-content/uploads/leave-absence-benefits.pdf)

Ohio Public Employees Retirement System (OPERS), [opers.org](http://opers.org)

Ohio Revised Code, [codes.ohio.gov](http://codes.ohio.gov)

State Teachers Retirement System of Ohio (STRS), [strsoh.org](http://strsoh.org)

The Ohio State University ADA website, [ada.osu.edu](http://ada.osu.edu)

Uniformed Services Employment and Reemployment Rights Act, [webapps.dol.gov/elaws/vets/userra/userra.asp](http://webapps.dol.gov/elaws/vets/userra/userra.asp)

### Contacts

Subject	Office	Telephone	E-mail/URL
Benefits questions	Benefits Services, Office of Human Resources	614-292-1050 800-678-6010	<a href="mailto:hr@osu.edu">hr@osu.edu</a>
Military leave requests	Office of Human Resources, Integrated Absence Management and Vocational Services	614-292-3439	<a href="mailto:hr-integrateddisability@osu.edu">hr-integrateddisability@osu.edu</a>
Policy questions	Office of Human Resources, Employee and Labor Relations I	614-292-2800	<a href="mailto:hr-elr@osu.edu">hr-elr@osu.edu</a>

### History

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