



**Office of Human Resources
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TO: Chancellors
FROM: George H. Brooks
SUBJECT: Call Up of Staff to Active Military Duty

Recent events have raised questions regarding employer and employee rights, obligations and responsibilities under federal and state statutes and University rules and policies, for staff who are members of the Guards or Reserves who are called to active military duty. We thought it would be helpful to provide you with a brief summary. Your Human Resource and Benefits staffs will be provided with a packet of information in the near future to assist them in responding to questions and administering provisions for unclassified and classified employees. We are awaiting information from the Departments of Employment Relations and Employee Trust Funds to complete this information.

Granting Military Leaves

All unclassified or classified employees (except LTE's, project/project, program assistant, project assistant, teaching assistant and student hourly employees) who are ordered or inducted into active military service, who present their orders and request a military service leave, shall be placed on a leave of absence.

For the first 30 days of military leave each calendar year, employees may elect to receive the difference between their University pay and their military pay when their University pay is greater. Military leave in excess of 30 days is unpaid leave.

Note: Employees may elect to use accumulated paid leave (other than Sick Leave) for military leave, collecting both military and University pay, during those first 30 days of military leave, elect to use it immediately following the 30 days of paid leave and prior to going on unpaid leave or leave the time in their accounts.

Benefits while on Unpaid Leave

The University will continue to pay the state's share of an employee's State Group Life and Income Continuation insurance premiums for a limited time as with all other leaves. Special provisions under s. 40.05 (4g), Wis. Stats. require the University to pay the state's share of Health insurance premiums, if an employee elects continued coverage as long as the employee remains on active duty. Employees must prepay their share of health insurance and the full premiums of other insurances they elect to continue.

Employees do not earn paid leave time (sick leave, vacation, holidays) while on unpaid military leave.

Restoration Rights

Pursuant to provisions in s. 230.32 and s. 45.50, Wis. Stats., employees have rights to be restored to the same or a similar position at the expiration of their leaves. However, some situations may involve special circumstances.*

Employees restored from military leave will not have their continuous service dates adjusted for the time of their leaves.

Employees who let their insurances lapse have rights to re-enroll within 30 days of restoration.

Pay upon restoration shall be determined according to the statutes, administrative codes, pay plans and labor contracts as they apply to the individual employee.

Classified

At the expiration of military leaves, employees will have restoration rights to the same or similar position as they left.

Employees who were serving probationary periods should be restored to that point in the period as if service had not been interrupted.

Though not covered by Wisconsin statutes, strong consideration should be given to restoring LTE's who, because of long-term employment, may have a legitimate reason to expect continued employment beyond the period of their military leaves.

*When a legitimate decision has been made to terminate an employee prior to a military leave, that decision need not be delayed. A project employee whose project ends during a military leave may be terminated. (A permanent project employee may have other rights to a position.) Your Human Resource Office and/or legal counsel should be consulted prior to taking the action. Such decisions should be communicated to employees as early as possible.

Unclassified

In general, unclassified staff who return from military leave will have restoration rights to the same or similar position they held prior to the leave. Exceptions and cautions are noted below.

*When a legitimate decision has been made to nonrenew an employee prior to a military leave, that decision need not be delayed. Your Human Resource Office and/or legal counsel should be consulted prior to taking the action. Such decisions should be communicated to employees as soon as possible.

Tenured faculty and academic staff with indefinite appointments have mandatory restoration rights upon return from military leave.

As with other leaves of absence, military leave for faculty and academic staff on a probationary appointment shall not constitute a break in continuous service; however, the time on unpaid leave may stop the probationary clock until the employee returns.

An employee on a fixed term appointment whose appointment ends during a military leave does not have mandatory restoration rights to a fixed term appointment. If s/he is not placed in a backup

position (e.g., has restoration rights to a classified position) or appointed to another position, the leave of absence will end at the expiration of the appointment. Special attention should be paid to fixed term appointments that may end during a military leave where the intention was to renew the appointment. It is advisable, where possible, to renew the appointments prior to the beginning of the military leave to prevent unintentional lapsing of appointments.

An employee serving in a limited appointment where employment was intended to continue will have restoration rights at the expiration of his/her military leave to the same or similar position held prior to going on leave. If the intent was to remove the incumbent from his/her limited appointment, and the incumbent has a backup appointment, s/he should be placed in his/her backup appointment prior to military leave, if possible.

To summarize for unclassified:

Appointment

Tenured Faculty
Limited
Indefinite
Fixed Term (Renewal Intended)

Reemployment Treatment

If the intent was to continue their employment/renew the appointment, then assume incumbents have restoration rights upon return from military leave.

Probationary
Limited
Fixed Term (Terminal/No Renewal Intended)

If the intent was not to continue their employment/renew the appointment, incumbents should be notified of intent upon or before being called to active duty.

As mentioned earlier, detailed information will be sent to your human resource and benefits staff. As much of this process is technical and varies with individual circumstances, it is recommended that they be involved in the granting of all military leaves for call up to active duty.

Questions regarding military leaves can be directed to Vicki Kenyon (608-263-2146) or Owen Bradley (608-263-4383); benefit questions should be directed to Allan Deptula (608-265-5150).

cc: Senior Vice President Olien
Deputy General Counsel Pat Brady
Owen Bradley
Vicki Kenyon