

Military Leave and National Disaster Medical System (NDMS) Guidelines

The following is intended as non-technical guidance for implementation of the Military Leave requirements set forth in the Chapter 17.12 of the University's Operations Manual, Chapter 29A.28 of the Iowa Code, Chapter 581-14 of the Iowa Administrative Code, and Title 38 U.S.C. 4301-4333, the Uniformed Service Employment & Reemployment Rights Act (USERRA). It is for informational purposes only, and should not be considered as a substitute for the language of the actual state and federal statutes.

In a nutshell, the intent of USERRA is to promptly return members of the uniformed services to their civilian employment upon completion of their service, with the seniority, status, and rate of pay they would have received had they remained continuously employed. State law and University policy extend the additional benefit of 30 calendar days of paid status per calendar year while on military leave.

USERRA and the Iowa Code section also applies to members of the National Disaster Medical System (NDMS), organized under the Federal Department of Health and Human Services, who volunteer intermittently when activated as Federal employees, to provide medically-related assistance to victims of public health emergencies or when participating in authorized training. For NDMS employees, the return to work provision applies only to Federal call-ups.

Leave Requirements

Employees must provide a copy of their military orders prior to their last day at work or as soon as written orders are published by their unit. These must be retained as a permanent record for no less than seven (7) years or until the employee returns from military service.

Permanent and probationary staff members, when ordered to active duty (military or NDMS), are provided the first thirty (30) calendar days of military leave in each calendar year without loss of pay. At the end of the paid military leave period, the individuals should be placed on unpaid leave for up to five (5) years. Upon request, the individual may draw upon any accrued comp (merit) or vacation they may have, if they wish to remain in pay status for a longer period of time. This should be taken as a block of time, however, and not on an intermittent basis. The period of paid military leave would include any applicable shift premiums, as they are to serve without loss of pay during the initial period.

The initial period of paid leave (the first thirty (30) calendar days of leave in each calendar year), is normally reflected on the employee time record or the leave adjustment record. A leave of absence form is not needed for the period of paid leave, if the time is recorded on a time or leave record. In this case, the leave of absence form should be processed only for the unpaid leave, commencing after the thirty (30) days without loss of pay has been exhausted. In contrast, the only cases where a leave form is generated for the period of paid leave is for those employees who do not have a time record or leave form available to record the paid military leave (e.g., graduate assistants). In such cases, a second leave would be required to convert the individual to unpaid military leave at the end of the paid leave period. Should employees remain on unpaid military leave into the next calendar year, they will again be eligible for another thirty (30) calendar days with pay. Therefore, you may wish to make a notation to end the period of unpaid leave on December 31st of the current year, and resume pay status on January 1 of the next year.

Alternatively, if a staff member resigns from employment for induction into military service, the employee shall be given thirty (30) calendar days of pay in a lump sum in his/her last paycheck.

Vacation, Holidays, and Sick Leave During Military Leave

Upon request, employees may be paid a lump sum of their accrued vacation when inducted into the military service or called to active duty, if they resign their position at the University.

Military leave counts toward the calculation of FMLA eligibility, both in terms of the minimum of one (1) year of employment, as well as the number of hours worked, based upon the percent of appointment at the time of the leave.

Employees will not accrue vacation, sick leave, or holidays while on military leave.

Employees will receive holiday pay for any holidays that occur during the first thirty (30) days of paid military leave.

Replacement Options

The primary means to replace individuals on military and NDMS leave is either through reassignment of existing staff, or through the use of temporary staff. In order to hire a permanent replacement, the unit would need to be able to hold a comparable position in order

to provide for the return of the person on military or NDMS leave. Decisions about any permanent replacements should be reviewed at the college and/or divisional level, or through central HR.

Return to Work

Individuals on military and NDMS leave have an obligation to return to work within a specified period after discharge:

- If military or NDMS leave is less than thirty-one(31) days, the employee must report for reemployment at the beginning of the first regularly scheduled workday that falls eight (8) hours after return from service.
- If military or NDMS leave is greater than or equal to thirty (30) days, but less than 181 days, the employee has fourteen (14) days to apply for reemployment.
- If the military or NDMS leave is more than 180 days, the employee has up to ninety (90) days to apply for reemployment.

The notice periods above may be extended due to recovery from any injury incurred on active duty.

Employees who return from military and NDMS service within the specified time frame are entitled to the following:

- Restoration of their previous adjusted employment date for vacation accrual purposes.
- Restoration of previous seniority date.
- Restoration of sick leave and vacation balances accrual at the time of induction or call to active duty.
- All pay adjustments and pay increases for which the employee would have been entitled had they not entered the military or NDMS service. In other words, no adjustment will be made to the employee's pay increase eligibility date for the period of military or NDMS service.

The University's obligation is to place returning individuals into comparable positions, in terms of salary and shift. While we do not have to provide the individual with the same assignment, it is anticipated that they would return to a position comparable to the one they left. Staff retain their original employment date and any seniority rights. They maintain their vacation and sick leave accruals, but they do not accrue additional leave while on unpaid leave. Any

pay raises for which they would have been eligible during their absence will be factored into their pay rate upon their return. Merit staff placed on unpaid leave will maintain their existing step increase dates, and upon their return, are entitled to the rate of pay they would have received had their employment not been interrupted.

The University is **not** obligated to reemploy an individual if his/her employment was for a "brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period." Should an individual's employment end normally during the course of military service (e.g., temporary or term appointments), the University does not have to maintain that person on a leave of absence beyond the normal end date of his/her position. For example, graduate assistants employed for the current academic term would not remain on leave beyond the end of their appointment. Please contact Human Resources if you have questions regarding temporary/term employees.

Insurance Benefits

The employee entering active military service and his or her family members are eligible for military health and dental benefits under TRICARE. Information regarding TRICARE benefits may be obtained at www.tricare.mil or call 1-800-538-9552 to confirm or establish eligibility.

Military employees receiving insurance under the University's or State's group plans may wish to continue that coverage. NDMS employees may continue their employer insurance coverage at the normal contribution rate during periods of NDMS training or service up to thirty (30) days. For longer periods, the employee may elect coverage continuation at the full monthly premium cost. This continuation coverage ends on the day after the deadline for the employee to apply for reemployment. Upon return to the University job, insurance coverage is immediately reinstated.

Flexible Spending Accounts

Claims for flexible spending accounts may continue for the remainder of the calendar year until the accumulated funds are depleted.

Other Benefits

All voluntary deductions cease during the period of leave without pay.

Employees who terminate employment are eligible to receive a distribution of their retirement funds.

IPERS

Questions about retirement benefits should be addressed to IPERS at (515) 281-0020.

IPERS contributions will be made during the period of military leave with pay for up to thirty (30) days. For example, if an individual has fifteen (15) days military leave, contributions will be made for fifteen (15) days.

TIAA-CREF

Questions about retirement benefits should be addressed to TIAA-CREF at 800-842-2273.

TIAA-CREF contributions will be made during the period of military leave with pay for up to thirty (30) days.