The update is significant, but the policy's substance has not changed.

Leaves for Military Duty and Military Families
HR-05-60

About This Policy

Effective Dates:
08-01-2007

Last Updated:
01-05-2021

Responsible University Administrator:
Vice President for Human Resources

Policy Contact:
IU Human Resources
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Scope

This policy applies to all Staff and Temporary employees.

Policy Statement

1. In compliance with federal and Indiana law, Indiana University 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. In compliance with Indiana law, Indiana University 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 supervisors with guidelines and procedures for leaves for military duty and military families for staff and temporary employees.

Procedure

Paid Leave for Military Duty

1. Paid leave for military training or active duty based on Indiana Code (IC 10-16-7-5)
   a. An eligible Staff employee is entitled to a paid leave for military training or active duty service. The employee receives pay for all scheduled workdays during the service period.
      1. 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.
      2. 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. Usually, the paid military leave does not apply to training drills regularly scheduled on the weekend. To receive pay for weekend drills, a staff 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.

1. The employee’s regular work schedule must include Saturdays or Sundays.
2. The employee must be scheduled to work the weekend of the training.
3. The employee must be ordered for military training.

3. Military service in excess of 15 days
   a. If a staff employee incurs absences for more than 15 days of service, the employee may do either of the following:
      1. 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 accrued time off categories, the employee is to go on a leave of absence or separate.
      2. 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 the orders are available.
   b. Units must indicate the number of hours charged to military service.

Unpaid Leave for Extended Active Military Duty

1. 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.

2. As soon as a supervisor or unit head is informed or becomes aware that an employee will leave or has left for military service, the supervisor or unit head must consult with the campus human resources office to ensure university compliance with USERRA and the regulations.

3. Military leave without pay shall be granted for an employee in a position that is not temporary.
   a. USERRA defines 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.
   b. If the employee explicitly states at the start of, or at any time during, the military leave that the employee does not intend to return to work at the university, the unit may separate the employee; however, Section 10 below is still applicable.

4. To be eligible for unpaid leave for extended active military duty, an employee must meet one of the following criteria:
   a. The employee is inducted through Selective Service; or
   b. The employee enlists voluntarily; or
   c. The employee is called through membership in the uniformed services.

5. The limit on the cumulative time away from work at the university for military service and still retaining USERRA rights is five years.

6. The military leave without pay covers the dates that the employee is actively performing uniformed service. The five-year limit may also extend to a later date when the employee is able to obtain a release from active duty. The 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 discussed with the campus human resources office if a case arises.

7. 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 the employee meets all of the following criteria:
a. The employee was discharged from or completed the period of military service under honorable conditions;
   1. Request to return to work by employees who did not have an honorable discharge will be reviewed individually.

b. The employee requests to return to work within the time limits specified in the Reemployment Provisions policy;

c. The cumulative period away from the university in military service does not exceed five years unless one of the USERRA exceptions applies.

8. An Employee who meets these criteria shall be returned to the status that they would have enjoyed with reasonable certainty as if the military absence had not occurred, including completing an evaluation period that would have expired during this time.

9. See the Reemployment Provisions policy for a fuller description of the position, pay, and benefits employees who meet these criteria are eligible to receive when they return from military service.

10. The right to return to work exists even if the employee gave an explicit, written statement at the start or during the leave that they did not intend to return to work and resigned, separated, or was placed on a leave of absence based on this statement.

11. An employee returned to work under the provisions of USERRA may not be terminated except for cause:
    a. For 180 days after the date of return if the most recent period of uniformed service was less than 181 days; or
    b. For one year after the date of return, if the most recent period of uniformed service was more than 180 days.

Unpaid Leave for Military Families

1. 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](http://www.in.gov/legislative/ic/code/title22/ar2/ch13.html).

2. The Act provides for unpaid leave for a total of 10 workdays per calendar year during one or more of the following periods:
   a. Within the 30 days before a family member begins active duty,
   b. During the period that a family member is on active duty, or
   c. During the 30 days following a family member's return from active duty.

3. The time can be taken in full in one period or split among the periods.

4. An employee is eligible for this leave for each family member on active duty.

5. To be eligible for this leave, the employee must be a “family member,” which is defined by the law as having one of the following relationships to the person on active duty:
   a. Spouse;
   b. Parent (biological, adoptive, foster, step, or court-appointed guardian or custodian);
   c. Grandparent (biological, adoptive, foster, or step);
   d. Child (biological, adopted, foster, or step); or
   e. Sibling (biological, adoptive, foster, or step).

6. Time off for employees who are other family members is discretionary and subject to supervisory approval.

7. A leave request that meets the family member and active duty criteria above must be granted unless:
   a. The employee 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
   b. The employee has used all ten workdays for that family member for the calendar year.
8. An employee must provide written notice, including, if available, a copy of the active-duty orders, at least 30 days before the leave begins, or as soon as possible if the orders are issued less than 30 days before the leave starts.

9. The Military Family Leave Act does not provide 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.
   a. Vacation or PTO time used during a military family leave will not count towards annual limits on the use of such time.
   b. 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.
   c. If the employee does not have sufficient accrued vacation or PTO to cover the leave, any other accrued time off or absence without pay may be used at the employee’s choice.

Definitions

For Unpaid Leave for Extended Active Military Duty

Temporary positions: Those that exist for a brief, non-recurrent period with no reasonable expectation that the employment would have continued for a significant period.

Uniformed services: 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.

For Unpaid Leave for Military Families

The armed forces of the United States: The active or reserve components of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Merchant Marine.

Active duty: 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.

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.

Additional Contacts

Campus HR offices

Various

History

December 2020
IU HR completed a full and substantive review to assess the ongoing need and effectiveness.

May 2018
Removed same-sex domestic partner language.

September 2017
Removes Affidavit of Domestic Partnership.

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.

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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

**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