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| Category: Operations | | | |
|  | Policy Title: Military Leave Policy | | Policy #: 5.1.2.1 |
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| | Preparer: Faye Giles | Approval Date: Jan 24, 2020 | Revision Date: |
| | Executive Owner: | | |
| | Chief Executive Approval: Adam Cohen <i>Adam Cohen</i> Adam Cohen (Jan 24, 2020) | | |

1.0 Purpose and Scope

AUI Corporate to Create Military Leave Policy to mirror Federal Military Leave Policy. Associated Universities, Inc. (AUI) is committed to creating a work environment in which all individuals are treated with respect and dignity. AUI will monitor and review the application/recruitment process to ensure that all applicants are treated fairly, without regard to race, color, religion, sex, age, disability, gender, gender expression, gender identity, sexual orientation, marital status, national origin or any other characteristic protected by law. There will be no discrimination against any employee or applicant for employment because of mental or physical disability. Further, AUI will take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals, qualified disabled veterans, and veterans of the Vietnam Era without discrimination based on their disability or veteran status in all employment practices. AUI will select the best qualified candidate to perform the duties of an available position and will give first consideration to present employees whenever practical.

The Uniformed Services Employment and Reemployment Rights Act of 1994 is a federal law intended to ensure that persons who serve or have served in the Armed Forces, Reserves, National Guard or other "uniformed services": (1) are not disadvantaged in their civilian careers because of their service; (2) are promptly reemployed in their civilian jobs upon return from duty; and (3) are not discriminated against in employment based on past, present or future military service.

This policy applies to all current full-time and part-time employees and applicants who are members of, have applied for membership in, or are obligated to serve in, the "uniformed services", including the Army, Navy, Air Force, Marines, Coast Guard, Public Health Service Commissioned Corps, the reserve components of those services, the National Guard and any other group of individuals designated by the President in time of war or national emergency (collectively, the "uniformed services").

AUI follows the guidelines established by the Uniformed Services Employment and Reemployment Rights Act (USERRA) regarding military leave.

Definitions:

Employees who are also military personnel in the Reserve or National Guard will at times need to take leave for military training, mobilization, or deployment.



For purposes of this policy, Military Leave shall be defined as:

- Actual service during a war declared by Congress or while participating in a campaign or expedition for which a campaign badge is authorized. Or,
- All active duty when retirement was based on a disability received as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war.

2.0 Policy Statement

An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. Regular full-time and benefits eligible part-time employees who are military personnel are entitled to military leave.

- When able, employees shall provide a written yearly schedule that outlines the employee's military training schedule. However, when unable, written communication to employee's management shall be provided as soon as anticipated absences are expected.
- Regular full-time employees working a 40-hour workweek will be allocated 120 hours (15 workdays x 8 hours) of military leave in a fiscal year, or the equivalent of three 40-hour workweeks for Reserve and National Guard military leave assignments. A maximum of 120 hours will be carried into the next fiscal year with a maximum allocation of 240 hours in a fiscal year. Once military leave is expended, an employee may choose to take vacation leave and/or leave without pay to cover the absence from work. Regular benefits eligible part-time employees will be allotted military leave prorated according to the employees' official work schedule.
- Reserve and National Guard military leave assignments such as Active Duty, Active Duty Training, Inactive Duty Training, and State Active Duty. Inactive Duty Training is authorized training performed by members of a Reserve or National Guard component not on Active Duty. It is performed in connection with the prescribed activities of the Reserve or National Guard. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training.
- Military leave should be credited to a full-time employee on the basis of their assigned work schedule. An employee may charge military leave in compliance with policy regarding reporting hours of worked and only for the hours that the employee would otherwise have worked and received pay.
- Employees who request military leave for Inactive Duty Training (which generally is two, four, or six hours in length) will charge only the amount of military leave necessary to cover the period of training and necessary travel.
- For emergency duty as ordered by the President of the United States or a State governor, up to 176 hours (22 workdays x 8 hours) of military leave may be granted in a fiscal year. The military leave can be for law enforcement or the protection of life and property.
- For a military member mobilized on extended leave, the military member will be eligible to receive "differential pay" for a maximum of 18 months after all other military leave allocations are exhausted. AUI will pay the difference between their regular rate of pay and what the service member receives from the military for their military base and longevity pay. Military allowances including, but not limited to: (i) special activity pay, such as flight or jump pay; (ii) allowances, such as quarters or subsistence; (iii) base military pay for Saturdays, Sundays, or holidays observed by the AUI, are not considered part of military base pay. Once an employee returns from a mobilization, the employee must remain in their usual employment for at least 12 consecutive months before the differential pay benefit is available again.



- To request military leave, the employee must make an appropriate request to their direct supervisor. Once leave is approved, a copy of the military orders or other official military documentation in support of the leave request will be required.
- Employees on extended military leave will have the option to continue all elected benefit programs. Retirement contributions will continue during the period of leave at the employee's full annualized salary. Vacation and sick leave accruals will continue during the period of leave.

Active Duty for Special Work (ADSW):

The military leave allowances referenced above does not cover employees who are serving with voluntary orders. If a military member volunteers to take on full-time orders at a military facility, the employee would receive only their military pay with no supplemental obligation from AUI.

RETURN TO WORK:

Qualifying Exigency

Eligible employees may take up to 12 weeks of FMLA qualifying exigency leave while their spouse, child or parent is on or called to active duty. Leave may be taken for the following reasons:

- To address issues because of a short-notice deployment (employees may take up to seven days for this reason).
- To attend official events related to the duty or support/assistance programs sponsored by the military.
- To arrange for alternative childcare when the duty necessitates a change.
- To make or update financial or legal arrangements to address the service member's absence.
- To attend counseling necessitated by the duty.
- To spend time with a service member who is on short-term rest and recuperation leave (employees may take up to five days for this reason).
- To attend post-deployment events sponsored by the military (employees may take up to 90 days after the service ends).

Caring for a Military Family Member

Per Family Medical Leave (FML) policy, eligible employees may take up to 26 weeks of leave to care for a spouse, child, parent or next of kin who incurred a serious illness or injury in the line of duty or had an injury/illness aggravated by military duty.

In addition to leave because of a family member's military activity, an employee may have a serious health condition incurred while serving in the military and may be entitled to take time off to care for this condition after returning from military service per FML policy. Such a condition may also be a disability under the American Disability Act (ADA).

American Disability Act (ADA)

Both USERRA and the ADA include reasonable accommodation obligations, as indicated above; the ADA prohibits discrimination on the basis of a disability. Employers must provide reasonable accommodation to employees or applicants for a known disability. In some cases, leave beyond what other laws mandate may



be a reasonable accommodation. The ADA requires that an employer engage in the “interactive process” when a need for an accommodation is known. During this process, the employer and the employee will discuss the situation with a focus on what accommodations will be effective and reasonable.

Job Restoration

At the conclusion of an employee’s military activation leave of less than five years: If the employee’s military service is less than five years (not including exempted service) and upon the employee’s proper application for reinstatement, as defined below, AUI will return the employee to active status. AUI will place the employee in the position he/she held prior to taking the leave. If that position no longer exists, AUI will endeavor to place the employee in a like position, the duties of which the employee is qualified to perform. An employee, however, shall have no greater right to a position than if he/she had not taken the leave.

In accordance with USERRA, the employee must provide proper notification to the organization within specific time frames.

The duration of the military orders will govern the proper application for reinstatement:

- Military service of 1 to 30 days: Employees must report back to work not later than their first regularly scheduled work day following the completion of military service plus eight hours after returning from the location of that service to their residence, unless previously arranged vacation leave was approved by their supervisor.
- Military service of 31 to 180 days: Employees must indicate their intent to return to active employment not later than 14 days after completion of military duty. Time away from work following the completion of military service plus eight hours after returning from the location of that service to their residence will be coded using an applicable leave code.
- Military service of 181 or more days: Employees must indicate their intent to return to active employment not later than 30 days after completion of military duty. Time away from work following the completion of military service plus eight hours after returning from the location of that service to their residence will be coded using an applicable leave code.

At the conclusion of an employee’s military activation leave of five or more years: If an employee’s military service exceeds USERRA’s five-year job restoration period (not including exempted service) he/she will be provided up to 90 days (subject to any USERRA-qualifying extension for military-related hospitalization, illness, injury, or convalescence) to indicate their intention to return to active employment. Upon proper notification, AUI will make a reasonable effort to re-employ the individual. However, that individual shall have no greater right to a position than if he/she had not taken the leave.

Healthcare coverage:

Healthcare coverage will begin immediately upon request at reemployment without a waiting period. The Company will reinstate all other employment benefits in accordance with USERRA. The returning employee should contact HR to review those benefits.



Training:

The Company will provide returning uniformed servicemembers with a reasonable period of time to complete any training they may have missed or may require to perform their job.

PERFORMANCE REVIEWS AND SALARY ADJUSTMENTS:

Performance reviews will be deferred for employees on a paid or unpaid military leave status for an extended period during any one performance period (i.e., more than 275 days for employees on an annual cycle). Managers should provide informal feedback to the employee within 60-90 days of his/her return to work, and conduct a full performance review at the next normal cycle.

For employees with satisfactory performance prior to an extended leave, AUI will work with the employee's department management to review, approve, and process pay increases for the employee on military leave in accordance with established guidelines for regularly scheduled pay increase processes. These salary adjustments will be reflected in the pay differential received during the salary continuation period. Moreover, because these salary increases already will be included in the employee's base pay, no pay adjustments will be necessary upon an employee's return from military leave.

SYSTEM ACCESS AND COMPANY EQUIPMENT:

Systems access: Employees may retain access to AUI systems during short term military leave periods. Once they enter a long-term leave status, the systems access will end. In addition, all company owned and provided equipment (to include computers, badges, and building access) shall be held at the employee's AUI duty site location until return from military service.

3.0 Regulatory References

ADDITIONAL CONSIDERATIONS:

State Regulations

AUI will comply with all applicable state regulations covering military leave.

VA National Guard: Members of the Virginia National Guard (not defined to include the Virginia State Defense Force or Virginia employees who are members of the National Guards of other states) have additional rights and protections under Virginia law. Specifically, members of the Virginia National Guard who are called to state active duty service for 30 consecutive days or more are also entitled to the rights, benefits and protections that would be provided under the federal Servicemembers Civil Relief Act, if they had been called to federal active duty service. In addition, if a Virginia National Guard member is called to active duty by the Governor, the employer must ensure that the member has the option of continuing, at his or her expense, health care coverage, life insurance or long-term care insurance.

Colorado National Guard: Regular full-time and part-time employees who are members of the Colorado National Guard are entitled to an unpaid leave of absence to perform active state service. Additionally, regular full-time and part-time employees who are members of the Colorado National Guard or United States armed forces reserves may take up to 15 days of unpaid leave per calendar year



for military training with the United States armed forces. Upon return from active state service or military training, employees will be reinstated to their former position or to a position of like seniority, status and pay, so long as they:

- Had a nontemporary job before taking leave;
- Provide evidence that training or service was satisfactorily completed; and
- Are still qualified to do the job.

Absence for military service or training will not affect an employee's rights to receive normal vacation, sick leave, bonuses, advancement or other advantages of employment that would otherwise be expected for the employee's particular job.

Retaliation and Discrimination:

AUI prohibits and will not tolerate any retaliation against any employee or applicant based on his or her veteran's status, military affiliation, or uniformed service, or against any employee or applicant who makes a good faith report of a violation of this policy. AUI further prohibits discrimination in any other way against an employee or a applicant because of his or her membership, application for membership, performance of service, application for service or obligation for service in the uniformed services.

The prohibitions against retaliation and discrimination apply to all employment positions, including those that are for a brief, nonrecurring period, and for which there is no reasonable expectation that the position will continue indefinitely or for a significant period.

4.0 Responsibilities

Policy Violations:

Employees who violate this policy or retaliate against any other employee or applicant for making a complaint under this policy will be subject to corrective action, up to and including termination.

5.0 Revision History






AUI_Uniformed Services Leave Policy

Final Audit Report

2020-01-24

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