

HR – LEAVE MANAGEMENT
Military Leave
420.15

PURPOSE

The purpose of this policy is to establish guidelines for employees who are subject to military leave that are in compliance with state and federal laws, namely the Uniformed Services Employment and Reemployment Rights Act (USERRA). An employee, other than a temporary employee, who is a member of an officially recognized military reserve unit or component of the United States armed forces, shall be entitled to a leave of absence from duties when they are training or when called to duty. Any employee subject to call for military service shall complete a REGISTRATION FOR MILITARY LEAVE OF ABSENCE FORM at their time of employment with the County or at the time during their employment with the County that they become eligible for being called to military service.

POLICY

There shall be a consistent process for regular part-time and full-time County employees who are subject to military leave to be entitled to a leave of absence from the County while in training or called to duty.

PROCEDURE

Notification

An employee should present their military orders to their Department Head as far in advance as possible prior to utilizing military leave, unless circumstances make it impossible to provide such notice. The Department Head will forward to the Department of Human Resources a copy of any military orders received from an employee. If possible, this will be done prior to the effective date of the military leave. The employee will complete a MILITARY LEAVE OF ABSENCE RECORD when notifying the County of their impending leave. If the employee is deployed without sufficient time to notify the County, when word is received from a family member or other third party about the military leave, the Department Head and Human Resources will complete the MILITARY LEAVE OF ABSENCE RECORD.

Length of Duty Limit

An employee may take a maximum of five (5) years leave for military service, unless serving in time of war or national emergency such as that accompanying an Executive Order.

Benefits

Family and Medical Leave Act (FMLA) – Military leave time will be counted toward the employee's eligibility for FMLA leave once reemployed during the reinstatement period.

Health Insurance - An employee must have met the eligibility period prior to utilizing military leave to be eligible for this benefit. Health insurance can be continued at the employee's request for a period of time that is the lesser of the twenty-four (24) month period beginning on the date on which the employee's military leave begins or the period beginning on the date the employee's military leave begins and ending on the date which he or she fails to return from service or apply

for reemployment. If an employee is on military leave thirty (30) days or less, this benefit will remain in force as if the employee was actively at work. All employee contributions or premiums will be due and payable within the thirty (30) days. Non-payment will result in termination of coverage. The employee will be given the opportunity to continue health benefits after thirty (30) days, at 102% of the overall premium rate, which represents the employer's share plus the employee's share, plus 2% for administrative costs, as defined in the Consolidated Omnibus Budget Reconciliation Act (COBRA). Non-payment will result in termination of coverage. If coverage is dropped as a result of non-payment, it can be reinstated at any time during the leave upon notification to Human Resources and the payment of missed premiums. If the employee met the eligibility period prior to utilizing military leave and is re-employed within the reinstatement period, and if coverage was waived or cancelled at any time during the military leave, the employee will be eligible to participate in the plan immediately upon reemployment.

Leave – Military training leave will not automatically count against accumulated annual leave. Employees are entitled, at their option, to use any or all accrued paid vacation for military absences when called to active duty. If the employee chooses not to do so, their accrued leave will be frozen until such time the employee returns to work or separates employment. Accrued sick leave can not be used for military leave. Accrued sick leave will be frozen until such time the employee returns to work or separates employment.

Life and Disability Benefits - An employee must have met the eligibility period prior to utilizing military leave to be eligible for this benefit. If an employee is on leave thirty (30) days or less, this benefit will remain in force as if the employee was actively at work. All employee contributions or premiums will be due and payable within the thirty (30) days. Non-payment will result in termination of coverage. If the employee met the eligibility period prior to utilizing military leave and is reemployed within the reinstatement period, the employee will be eligible to participate in the plan as soon as practicable.

Voluntary Supplemental Life and Short-Term Disability – These benefits will become inactivate at the beginning of the military leave and will resume upon re-employment.

Reimbursement Benefits - An employee must have met the eligibility period prior to utilizing military leave to be eligible for this benefit. Health insurance can be continued at the employee's request for a period of time that is the lesser of the twenty-four (24) month period beginning on the date on which the employee's military leave begins or the period beginning on the date the employee's military leave begins and ending on the date which he or she fails to return from service or apply for reemployment. If an employee is on military leave thirty (30) days or less, this benefit will remain in force as if the employee was actively at work. All employee contributions or premiums will be due and payable within the thirty (30) days. Non-payment will result in termination of coverage. If the employee met the eligibility period prior to utilizing military leave and is re-employed within the reinstatement period, the employee will be eligible to participate in the plan the first of the month following re-employment.

Retirement Plan - If the employee met the eligibility period prior to utilizing military leave and is re-employed within the reinstatement period, the employee will be eligible to participate in the plan the first of the month following re-employment. Employees will also receive service credit for purposes of participation, vesting, and benefit accrual. County contributions will automatically be deposited for the first ninety (90) days of military leave. Thereafter, County contributions will not be deposited or matched during the military leave while the employee is not being compensated by the County. Immediately upon reinstatement, the employee may, at the employee's election, make any or all employee contributions that the employee would have been

eligible to make had their employment not been interrupted by military service. Such contributions must be made within a period that begins with the employee's reinstatement and that is not greater in duration than three times the length of the employee's military service, not to exceed five years. Employees will receive all associated County matches for such contributions.

Wages

Employees on military leave shall be entitled to regular pay during such period for up to a maximum of eighteen (18) working days in a calendar year, unless otherwise specified under the Official Code of Georgia Annotated (O.C.G.A) § 38-2-279. If the employee elects to request pay for accrued vacation, that pay will commence following the end of the federal or state mandated pay period. An employee's current hourly rate of pay will be adjusted to include any cost of living adjustments given during their leave of absence when the employee returns to work.

Performance Evaluation Period

The date of an employee's performance period will be unaffected by military leave. No performance evaluation will be conducted during the period in which the employee is on military leave. An employee will be entitled to a performance review at the next regularly scheduled date upon returning to work.

Reinstatement

Upon return from military leave, an employee must report to work or complete a REEMPLOYMENT APPLICATION FOR EMPLOYEES RETURNING FROM MILITARY LEAVE FORM within the specified time period for the restoration of rights and benefits in accordance with applicable state and federal laws. Employees who receive dishonorable discharges, bad conduct discharges, discharges under "other than honorable" conditions, and those who are dismissed or "dropped from the rolls" for disciplinary reasons are not entitled to the Uniformed Services Employment and Reemployment Rights Act (USERRA) protections. The employee must furnish a copy of their discharge papers (DD-214, Certificate of Release or Discharge from Active Duty) when applying for reemployment. An employee will be reinstated from active military leave if they report to work or re-apply within the appropriate schedule:

- 30 days or less must report to work at the start of the next regularly scheduled work period, allowing for eight hours rest plus adequate travel time.
- 31 - 180 days must reapply for reinstatement within 14 days of the end of service.
- 181 days must reapply within 90 days of completing service.

Employees who do not apply within the eligibility period will not be considered for re-employment as defined in the military leave policy, but will be considered as any other applicant would be under the County's standard hiring practices.

Employees who are reemployed during the reinstatement period following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed.

Position

Employees who have served ninety (90) days or less will be reinstated to their previous position. An employee who has served ninety-one (91) days or more will be reinstated to their previous position or a position of like seniority, status and pay.

Termination

Employees who have served in the military for any period of time are subject to termination as defined in the County's disciplinary policy.

Disability

Fayette County, as required by the Americans with Disabilities Act (ADA), will reinstate an employee, who has a service connected disability, in a position for which they are qualified. Fayette County will not re-employ the employee if such reasonable accommodation creates an undue hardship.

Approved: 01/22/2009