

1. Title

Military Leave

2. Policy

Sec. 1 Policy Statement. The University of Texas System Administration will comply with the military leave provisions established by the United States Department of Labor and the State of Texas.

Sec. 2 Purpose. To provide administration of military leave.

Sec. 3 Eligibility. Employees who meet the following criteria are eligible for military leave:

- State employees called to active duty or authorized military training for the State's military forces or any reserve branch of the U.S. armed forces,
- State employees who are members of a reserve branch of the U.S. armed forces and who are called to duty due to a national emergency, and
- State employees participating on urban search and rescue teams.

Sec. 4 Paid Military Leave. An employee who is called to active duty or authorized training as a member of any of these groups is entitled to a paid leave of absence without loss of performance review rating, other personal leave, or salary for up to 15 working days (continuous or intermittent) in a federal fiscal year (October 1 through September 30). If the employee does not use the 15 days of military leave in a federal fiscal year, the employee is entitled to carry the net balance forward to the next federal fiscal year, not to exceed 45 workdays.

Sec. 5 Use of Other Paid Leave. An employee may take accrued annual leave prior to the date military emergency leave begins.

Sec. 6 Military Emergency Leave.

6.1 State military forces normally train one weekend per month. Employees who are members of the State or National Guard and are called for duty by the Governor because of an emergency are entitled to unlimited emergency leave with full pay without loss of military leave or other personal leave. This time does not count against the allowed 15 days of annual paid military leave.

6.2 An employee who is called to active duty or authorized training as a member of the U.S. armed forces or a reserve component

of the U.S. armed forces for a period exceeding 15 working days in a federal fiscal year will be granted military emergency leave for the duration of the active service for the days in excess of 15. This emergency leave will not be at full pay, but at differential pay.

- 6.3 In addition, State employees who are members of the State's military forces called to State active duty by the Governor are entitled to paid emergency leave for the time during which they are on active duty. This time is not limited and does not count against military leave or annual leave.
- 6.4 A State employee called to federal active duty for the purpose of providing assistance to the civil authorities in a declared emergency or for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays per calendar year without loss of military leave or vacation leave.
- 6.5 Differential Pay.
 - (a) Differential pay will be paid to a member of the military on active duty who has been placed on military emergency leave. This pay is the difference in the employee's military pay and the normal pay in his/her position at U. T. System.
 - (b) Only State employees called to active duty in support of a national emergency or Homeland Security mission (under U.S. Code, Title 10 or Title 32) and whose military pay is less than their gross State pay are eligible for differential pay. Service members involved in routine military training or who are attending military schools are not entitled to this differential pay.
 - (c) The Office of Employee Services will determine differential pay eligibility after the employee provides the Military Leave and Earnings Statements for each month that emergency leave is going to be granted.
- 6.6 Insurance Benefits. Employees who become active members of the armed forces may elect to continue all coverage for themselves and their dependents in which they were enrolled on the day immediately prior to the date they entered active military duty status as long as premiums are paid while on leave. Some plans may exclude benefits for any services or supplies for injuries sustained while on active military duty. If the employee

does not elect to maintain coverage and coverage under the plans is terminated by reason of the employee's military service, coverage will be reinstated upon return to work without medical examination and without an exclusion or waiting period.

- 6.7 Insurance Elections. An employee who wishes to elect continued insurance coverage during military emergency leave must contact the Office of Employee Services prior to the beginning of the military emergency leave period.
- 6.8 Premium Payments. An employee is entitled to premium sharing during any month in which he or she works or is on paid leave. If the employee's paycheck for the month is insufficient to cover premiums, the employee is responsible for ensuring that all premiums are paid in full to the Office of Employee Services. An employee who is on unpaid leave for an entire month is not eligible for premium sharing and will be responsible for the full premium amount. Premium payments must be submitted to the Office of Employee Services. Coverage will be cancelled if premiums are not paid on time.
- 6.9 Vacation Leave, Sick Leave, and State Service. Unused vacation and sick leave accrued prior to military emergency leave will be frozen and will be available to the employee upon return to employment. The employee will accrue vacation and sick leave while on military emergency leave. However, accruals will only be credited to the employee on his or her return to employment. The employee will accrue State service credit while on military emergency leave.
- 6.10 Retirement Benefits.
 - (a) Continued accrual of service credit with the Teacher Retirement System of Texas (TRS) for an employee activated for military service shall be as determined by TRS consistent with State and federal law.
 - (b) If an employee's accrued retirement benefits are contingent upon the making of, or are derived from, the employee's contributions or elective deferrals to the retirement plan, the employee is entitled to those accrued retirement benefits only to the extent that the employee makes payments to the retirement plan. An employee will

be allowed to make up payments to the retirement plan missed as a result of active military service after returning to employment, but only during the time period defined by TRS.

Sec. 7 Employer Responsibilities.

7.1 The responsibilities of the U. T. System Administration toward an employee who is on active military duty are:

- (a) grant the employee unlimited emergency leave if called to active duty with federal or State military forces;
- (b) place the employee in the appropriate paid or unpaid military leave status for the duration of the active duty period;
- (c) continue group insurance benefits as if at work; if employee drops benefits, restore at previous levels on return to work;
- (d) there is no break in service if the employee is on military leave without pay (LWOP), even if it is for a full calendar month; that month will be counted in the calculation of total State service, and applied toward satisfying the six continuous months of service requirement for using vacation leave;
- (e) maintain accrued leave during absence and restore on return to work; and
- (f) restore the employee who has satisfied the required procedures for return from active military duty to the same position held or a position of similar seniority, status, and pay on return from active duty.

7.2 **Differential Pay.** The Chancellor shall grant military emergency leave to provide differential pay if the employee's military gross pay is less than the employee's State gross pay. The combination of differential pay and military pay may not exceed the employee's actual State gross pay. Pay received while assigned to a combat zone, hardship duty pay, and family separation pay is excluded when computing military differential pay. The employee will be informed of the intent to grant differential pay.

7.3 Training and Retraining.

- (a) Reasonable efforts must be made to train or otherwise qualify a returning service member for a position within the organization; an employee who cannot be qualified in a similar position will be placed in another position of lesser status and pay that he/she is qualified to perform, with full seniority.
- (b) Training, retraining, and/or other accommodations will be provided to persons with service-connected disabilities; if a disability cannot be accommodated after reasonable efforts by the employer, the employee will be reemployed in some other position he/she is qualified to perform that is the "nearest approximation" of the position to which the person was otherwise entitled in terms of status and pay and with full seniority.

Sec. 8 Employee Responsibilities.

- 8.1 Notify the supervisor of the call to military service as soon as the information is known.
- 8.2 Provide copy of military orders on receipt to supervisor and the Office of Employee Services prior to taking military leave.
- 8.3 Promptly and accurately record the use of leave.
- 8.4 The responsibilities of an employee returning from active military duty are:
 - (a) Return to Job as Required. Time limits for returning to work depend on the duration of the employee's military service with the exception of fitness-for-service examinations.

Period of Service	Action Employee Must Take	Timeline in Which Action Must Be Taken from Completion of Service
1 - 30 days	Report to work.	On the next regular work day after completion of service allowing for eight hours of rest and time to return home safely.
31 - 180 days	Notify supervisor of	Within 14 days of the completion of service.

	the intent to return to work.	
181+ days	Notify supervisor of the intent to return to work.	Within 90 days of the completion of service.

- (b) Fitness Exam. The time limit for reporting back to work for an employee who is absent from work in order to take a fitness-for-service examination is the same as the one above for those absent for 1 to 30 days; applies regardless of the length of the employee's absence.
- (c) Disability Incurred or Aggravated. The reporting deadlines are extended for up to two years for persons who are hospitalized or convalescing because of a disability incurred or aggravated during the period of military service. The two-year period will be extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable.
- (d) Unexcused Delay. An employee's reemployment rights are not automatically forfeited if the employee fails to report to work or to apply for reemployment within the required time limits, but the employee is then subject to the employer's rules governing unexcused absences.

3. Definitions

None

4. Relevant Federal and State Statutes

[Texas Government Code Sections 437.005 - .006, Texas Military](#)

[Texas Government Code Sections 613.002 - .006, Reemployment Following Military Service](#)

[Texas Government Code Section 658.008, Hours of Labor, Members of National Guard or Reserve](#)

[Texas Government Code Sections 661.903, 661.904, and 661.9041, Leave](#)

[Uniformed Services Employment and Reemployment Rights Act of 1994 \(USERRA\)](#)

[Texas Attorney General Opinion MW-109](#)

[Texas Attorney General Opinion H-105](#)

5. Relevant System Policies, Procedures, and Forms

None

6. System Administration Office(s) Responsible for Policy

Office of Employee Services

7. Dates Approved or Amended

November 1, 2001

October 21, 2010

July 12, 2011

March 8, 2012

July 15, 2013