

Title/Subject: **MILITARY LEAVE - LONG-TERM**

Applies to: faculty staff students student employees visitors contractors

Effective Date of This Revision: February 2016

Contact for More Information: Human Resources
Faculty Personnel Services

Board Policy Administrative Policy Procedure Guideline

BACKGROUND:

All CMU employees, who perform service on active duty in excess of fifteen (15) days in the uniformed services of the United States of America, will be allowed an approved unpaid leave of absence.

For short-term military leaves of absences, which are less than fifteen (15) days, refer to individual contracts/handbooks at <https://www.cmich.edu/fas/hr/Pages/default.aspx>

PURPOSE:

CMU has adopted this policy to comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 and the Veterans Benefits Improvement Act of 2004. To the extent that any provision of this policy is ambiguous and/or contradicts the Act(s), the language of the Act(s) will prevail.

DEFINITIONS:

The terms used in this policy have the following meaning:

- The term 'employee' refers to any person employed by Central Michigan University.
- The term 'employer' refers to Central Michigan University.
- The same meaning as those terms as defined in the Uniformed Service Employment and Reemployment Rights Act (USERRA) of 1994.

POLICY *(taken as an excerpt from the Act):*

Prior to taking a long-term military leave of absence, the employee must provide their supervisor and Human Resources or Faculty Personnel Services with written or verbal notice of their impending military leave, unless such notice is impossible or unreasonable.

1.0 Reinstatement Requirements: To qualify for reinstatement:

1.1 Employees must provide the University with written confirmation of release, under honorable conditions, from military service.

1.1.1 If total military time is five (5) years or less while employed with CMU, employees must apply for reinstatement within the specified time periods (as described in section 2.0).

1.1.2 Employees in military service for more than five (5) years may be ineligible for reinstatement.

1.1.3 Employees who were in positions that were for a brief, nonrecurring period of time

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(i.e. temporary staff or non-benefit eligible temporary faculty), may be ineligible for reinstatement.

- 1.1.4** Employer is not required to offer reinstatement if circumstances have changed so much that re-employment is “impossible or unreasonable” (i.e. a reduction of workforce that may include the returning employee).

2.0 Application for Reinstatement: When applying for reinstatement, the employee must provide their supervisor and Human Resources or Faculty Personnel Services with written or verbal notice of their intent to return to work along with documentation of qualifying discharge. Reinstatement notices must adhere to the following time limitations:

- 2.1** If service is less than thirty-one (31) days, employees must report no later than the beginning of the first full regularly scheduled work period, on the first full calendar day following completion of services and the expiration of eight (8) hours after safe transportation home.
- 2.2** If the service is between thirty-one (31) and one hundred and eighty (180) days, employees must report no later than fourteen (14) days following release from service.
- 2.3** If the service is greater than one hundred and eighty (180) days, employees must report no later than ninety (90) days following release from service.
- 2.4** Deadlines for reinstatement may be extended for a maximum of two (2) years from the date of completed service, with approval from Human Resources or Faculty Personnel Services, for employees who are hospitalized or convalescing from an injury caused by active military duty.

3.0 Reinstatement Policy:

- 3.1** If employees meet reinstatement requirements and have served less than ninety-one (91) days, the University will restore them to a position that they would have attained had they remained continuously employed.
- 3.2** Employees with ninety-one (91) or more days of military service will be placed as follows:
- 3.2.1** in the job the employee would have held had the employee remained continuously employed, so long as the employee is qualified for the job or can become qualified after reasonable efforts by the University, or
 - 3.2.2** in the job in which the employee was employed on the date of the commencement of the service in the uniformed services, only if the employee is not qualified to perform the duties of the position referred to in subparagraph (A).
 - 3.2.3** If the employee cannot become qualified for either position above (other than for a disability incurred in or aggravated by the military service), the employee must be reemployed in a position that is the nearest approximation to the positions described above (in that order) which the employee is qualified to perform, with full seniority.
- 3.3** If the returning employee’s skills need upgrading to meet the requirements of their position or promoted position, the University will make reasonable efforts to refresh or update these skills unless such efforts would create undue hardship for the University.
- 3.4** When an employee with a service-related disability is not qualified to perform the essential functions of their job after the University has made reasonable efforts to accommodate the disability, the employee may be placed in another position of comparable seniority, status and pay.

4.0 Benefits and Seniority:

- 4.1 Seniority:** Upon reinstatement, employees will be restored to their same seniority level as if there was no break in employment.
- 4.2 FMLA Eligibility:** Upon reinstatement, eligibility for FMLA leave shall be calculated as though no break in employment has occurred.
- 4.3 Retirement Plan and Vesting:**
- 4.3.1** Employee retirement plan accrual and vesting continues during military service as though no break in employment has occurred. The University will make any accrued contributions to the employee’s retirement plan on the next available pay after the employee has returned to active employment.
 - 4.3.2** If applicable, the employee may elect to make up any required employee contributions (i.e. MPERS) missed during the military leave by setting up a deduction amount directly through their regular payroll check. Such contributions must be paid into the employee’s retirement

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plan within a period not to exceed three (3) times the length of the military leave, up to a maximum of five (5) years.

- 4.3.3** If applicable, the employee may elect to make up any voluntary employee contributions (i.e. 403b or 457b) missed during the military leave by increasing their current deduction amount made through their regular payroll check. Maximums calculated for the employee voluntary plan contributions would still apply.

4.4 *CMU Choices* Benefits:

- 4.4.1** During the first thirty (30) days of military leave, the University will continue to provide the University contribution towards currently elected *CMU Choices* insurance plans for the employee and any covered dependent(s).
- 4.4.2** Employees serving for more than thirty (30) days may elect to continue coverage for themselves and any eligible dependent(s) through the Continuation of Insurance option provided by the Benefits Office for up to 24 months or until the day after the employee fails to report to work (not including sick time). The employee may elect to continue any or all of her/his current insurance coverage and will be responsible for the full premium amount (with no University contribution).
- 4.4.2.1** If the return is within the same plan year, all benefits will be reinstated as were originally elected for that plan year.
- 4.4.2.2** If the return is not in the same plan year, the employee will have the option of making a status change to their benefit elections (according to any plan changes allowed during the normal open enrollment period).

4.5 Tuition Benefit Plan:

- 4.5.1** Eligible employees who are taking course(s) for themselves and using CMU's Tuition Waiver policy at the time they are called for active duty, can choose to:
- 4.5.1.1** Withdraw from the course(s) - tuition waiver credits for the course(s) will be credited back to the employee.
- 4.5.1.2** Take an Incomplete for the course(s) – tuition waiver credits will remain as charged since completion of the coursework for a grade will occur at a later date.

4.6 Other Benefits:

- 4.6.1** **Benefits contingent upon paid status, other than those detailed above, will not continue during an unpaid military leave of absence.**

5.0 Protection Against Discharge:

- 5.1** An employee, who is reinstated under the provisions of the USERRA, has the following enhanced job security rights upon reinstatement:
- 5.1.1** If the length of military service was between thirty-one (31) to one hundred and eighty (180) days, during the one hundred and eighty (180) days following the employee's return to work, he/she can only be discharged for cause by the University.
- 5.1.2** If the length of military service was for more than one hundred and eighty (180) days, during the one (1) year period following the employee's return to work, he/she can only be discharged for cause by the University.

Central Michigan University reserves the right to make exceptions to, modify or eliminate this policy. This document supersedes all previous policies, procedures and directives relative to this subject.