

## **UNIFORMED SERVICES EMPLOYMENT AND RE-EMPLOYMENT RIGHTS ACT AND VETERANS BENEFITS IMPROVEMENT ACT**

The College honors and respects the rights and obligation of its employees to serve in the Armed Forces of the United States. The College will allow excused absence for its employees to serve in that capacity, in accordance with the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA), P.L. 103-353, the Veterans Benefits Improvement Act of 2004 (VBIA), and state laws where applicable. Leaves of absence and re-employment rights are provided by the College based on these laws.

As required by VBIA, the College will post a notice of rights and benefits under USERRA in a place where employers typically post notices to employees.

### **Scope**

This policy applies to all regular employees of the College. Employees in temporary positions (as defined below) are excluded from the reinstatement rights described in this policy.

### **Definitions**

**Military Service:** Active Duty, Training For Duty, Initial Active Duty for Training, Inactive Duty Training, full-time National Guard duty, funeral honors duty performed by National Guard or reserve members, and absence from work to determine fitness for any of the above types of duty (National Guard duty does not qualify as service in the uniformed services if the individual has been called up by the state governor for duty not subject to federal control, such as emergency duty in cases of floods, etc.)

**Uniformed Service:** Army, Navy, Marine Corps, Air Force or Coast Guard, reserve duty in the Army, Navy, Marine Corps, Air Force, or Coast Guard, Army National Guard or Air National Guard, Commissioned Corps of the Public Health Service, disaster response appointees of the National Disaster Medical Service, or any other category of persons designated by the President in time of war or emergency.

**Temporary Positions:** Positions which are brief or non-recurrent, and that cannot reasonably be expected to continue indefinitely or for a significant period. Generally these are positions of less than one (1) year in duration.

### **Procedures**

An employee or appropriate officer of the branch in the military in which the employee will be serving must give the employee's supervisor and Human Resources written notice and a copy of the military orders in advance of military service unless military necessity prevents the giving of notice or notice is otherwise impossible or unreasonable. Failure

to provide the required documents will result in the withholding of pay until such orders are received. Payroll should be contacted to determine how military pay is handled.

Under USERRA an employee is entitled to reinstatement to a position with the same status, rate of pay, opportunity for promotion and benefits as the position previously held by the employee and the employee may object to the proffered reemployment position if it does not have the same status as previous employment. Re-employment is based on the period of military service and other conditions as listed:

1. Military service of less than 31 days – the employee must report back to work by the beginning of the first regularly scheduled work day that would fall eight (8) hours after the employee returns home from the place of military service. If, due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible.
2. Military service of more than 30 days but less than 181 days- the employee must re-apply for employment at Human Resources no later than 14 days after military service is completed, or the next full calendar day when application becomes possible. The employee must also provide adequate documentation showing eligibility to return to work.
3. Military service of more than 180 days - the employee must re-apply for employment at Human Resources no later than 90 days after Military Service is completed. The employee must also provide adequate documentation showing eligibility to return to work.
4. The employee's separation from military service was under honorable conditions. A DD214 or similar document is required.
5. The cumulative length of the absence and of all previous absences for Military Service does not exceed five (5) years with certain exceptions provided in USERRA. The two-week annual training sessions and monthly weekend drills mandated by statute for reservists and National Guard members are exempt from the five (5)-year limitation.
6. The College is not required to reemploy a person if its circumstances have changed so as to make such reemployment impossible or unreasonable such as, for example, a reduction-in-force.
7. The reporting or application deadlines will be extended up to two (2) years for employees who are hospitalized or convalescing because of a service-connected illness or injury.
8. If reporting to work is impossible or unreasonable, the period will be extended, if necessary, to accommodate a circumstance beyond the employee's control.
9. The College and affected department will apply its rules governing unexcused absences in cases where an employee fails to report to work or to apply for reemployment rights within the required time limits.

The College will make reasonable efforts to accommodate an employee's disability so that the employee can be reemployed consistent with the requirements under USERRA

unless such accommodation will be of such difficulty or expense as to cause undue hardship.

The College will provide paid military leave by paying the difference between an employee's daily rate of pay and the fees or pay the employee is to receive in carrying out his/her obligation. Employees are not required to use accrued vacation during absences due to military service requirements, but may do so upon request (employees do not accrue vacation time while on military leave). Employees who follow the above procedure will accumulate seniority for the period of service in the Armed Forces and retain previously accumulated benefits, subject to rules and regulations that might be imposed in those plans underwritten by insurance companies. During any period of paid leave, the College will continue normal contributions towards the cost of benefits. When military service is unpaid, the employee will pay the cost of benefits. In addition, the employee will be eligible for any general increases in pay, or any approved benefits that occur during his/her absence.

An employee may elect to continue his/her health care benefits during the period of performing military service. Those employees will pay no more than the current employee rates.

An employee who is performing military service may elect to make employee contributions or elective deferrals to the College's pension plan, to the extent allowed by law. The amount may not exceed the amount the employee would have been permitted or required to contribute had he or she remained continuously employed during the period of military service. The employee contribution to the College's pension plan may be paid either during the period of military service or upon reemployment. The College's contribution to the pension plan will continue for the duration of the paid military leave based on the amount of money being paid by the College.

The College will take appropriate steps to ensure compliance with the reemployment rights extended to military personnel under USERRA. Accordingly, employees who perform more than 180 days of military service before reemployment may only be discharged for cause after a period of one year from the date of reemployment. Employees who perform military service more than 30 days but less than 181 days before reemployment may only be discharged for cause after a period of six (6) months from the date of reemployment.

### **LEAVE OF ABSENCE FOR MILITARY SPOUSES AND DOMESTIC PARTNERS**

All employees who work an average of 20 or more hours per week, and who are married to or have as a domestic partner a member of the armed forces, is eligible upon request for a ten day unpaid leave of absence. The purpose of the policy is to enable these employees to spend some time with their spouse/domestic partner while the spouse/domestic partner is on leave from the armed forces during a period of military conflict.

For an employee to qualify for leave, the employee must be married to, or the domestic partner of, a member of the armed forces of the United States, national guard, or reserves who has been deployed during a period of military conflict to a combat theater or combat

zone of operations. A “period of military conflict” is defined to mean a period of war declared by the United States Congress, or in which a member of a reserve component of the armed forces is ordered to active duty. The leave may only be used when the employee’s spouse/domestic partner is on leave from the armed forces during a period of military conflict.