2.1.18 MILITARY LEAVE

Last updated on: 01/01/2015

Formerly Known As Policy Number: 22.17

The Uniformed Service Employment and Reemployment Rights Act of 1994 ("USERRA") prohibits employers from discriminating against employees who fulfill non-career military obligations in the Uniformed Services. It also requires employers to provide a leave of absence to allow employees to perform military obligations. Separately, the Family Medical Leave Act ("FMLA") entitles eligible employees to take leave for a "qualifying exigency" when a covered family member is called to active duty or to care for a covered family member who is injured in the line of duty.

This policy provides military leaves as required by these and other laws and complies with the other relevant provisions of USERRA, other related regulations or as approved by Stanford University.

Authority: Approved by the Vice President for Human Resources.

Applicability: Applies to all regular staff as defined in Guide Memo 2.2.1 [1]: Definitions, Academic Staff-Research, and Academic Staff-Libraries. For policies that apply to employees covered by a collective bargaining agreement, refer to the agreements at Labor, Relations & Collective Bargaining [2].

1. Military Training Leave

a. When required to perform annual military training duty, a regular employee receives time off for the period of actual training, up to 17 calendar days a year. The University supplements the employee's military base pay for the scheduled working days of absence, up to the employee's full salary. Employees must complete one year of employment to receive supplemental military training pay from the University. Contact your local Human Resources Office for more information if needed.

b. Procedures for Military Training Pay
The affected employee should be placed on Leave of Absence Unpaid for reason of Military Service so health and life benefits are not interrupted. Upon conclusion of the training leave, the employee must provide a copy of the pay stub verifying income received from the military. The department then adjusts the employee's pay for the leave period so that the adjusted salary plus military pay equal the usual full salary.

2. Military Active Service Leave
An employee who voluntarily enters military service or is called to active duty for an extended period will have reinstatement rights to his/her current position if these requirements are met:

- The employee ensures Stanford receives advance written or verbal notice of military service,
- The period of service does not exceed five years,
- The employee returns to work or applies for reemployment in a timely manner after service ends, and
- The employee separates from military service under honorable conditions.

Contact your local Human Resources office with any questions about this information.

3. Military Spousal Leave

a. Type of Leave
Under California law, up to 10 days of unpaid leave is available to eligible employees who are spouses/domestic partners of deployed members of the military when the military spouse/domestic partner is on leave from deployment during a time of military conflict.

b. Eligibility
To be eligible for this form of leave, an employee must work an average of 20 or more hours per week and be the spouse or domestic partner of a "qualified member" of the United States Armed Forces, National Guard, or Reserves. A "qualified member" is a member of the United States Armed Forces who has been deployed during a period of military conflict. The employee also must provide:

- notice of intention to take family military leave within two business days of receiving official notice that the employee's military spouse will be on leave from deployment, and
- documentation certifying the employee's military spouse will be on leave from deployment during the time that the employee requests leave.

4. Leave for Families for Members of the Armed Forces (FMLA)

a. Qualifying Exigency (Emergency) Leave
Qualifying emergency leave allows eligible employees (see 4.c) to use some or all of their 12-week FMLA leave entitlement for an emergency due to a family member's active duty or call to active duty in any branch of the U.S. Armed Forces. Armed Forces include National Guard and Reserves. Qualifying emergencies are defined by regulation and include issues arising from a short-notice deployment, military events, child care, school activities, financial or legal arrangements, counseling, rest and recuperation, post-deployment activities, or any issue the University and employee agree to designate as a qualifying emergency.

b. Military Caregiver Leave
Military caregiver leave allows eligible employees (see 4.c) up to 26 weeks of job-protected FMLA leave in a rolling 12-month period that begins on the verified FMLA start date to care for covered family member who is a member of the Armed Forces and who:

- suffers serious injury or illness in the line of duty, or
- undergoes medical treatment, recuperation, or therapy for a serious injury or illness.
Service member means veterans and current members of the U.S. Armed Forces including the National Guard or Reserves.

Eligible employees may request caregiver leave to care for a veteran who:

- is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness incurred in the line of duty, while on active duty. (A serious illness or injury can include a preexisting injury or illness that was aggravated in the line of duty, while on active duty.), and
- was a member of the Armed Forces (including the National Guard or Reserves) at some point during the five-year period before undergoing the treatment, recuperation or therapy.

c. Eligibility

(1) Employee must be a spouse, parent, son or daughter of the service member.

(2) Employees are eligible to take this type of leave if employed by the University at least one year and have worked at least 1,250 hours (paid time off, paid leave and unpaid leave not included) during the 12 months before the start of the requested leave.

NOTE: This leave entitlement does not increase the amount of time an employee can be off work for FMLA reasons, except that up to 26 weeks of unpaid leave is available to care for an injured service member during a 12-month period.

For example, if an employee has used 12 weeks of FMLA leave for the birth of a child, the employee is not entitled to an additional 12 weeks of leave within that 12-month period to deal with exigent circumstances arising from a family member call to active duty. But, the employee would be entitled to up to another 12 weeks (for a total of 26 weeks combined) to care for a covered family member who is injured in the line of duty.

5. Benefits During Military Leave

a. Health and Life Benefits

Employees on unpaid leave for Military Service (MIL) will have the same University benefit contributions as when actively employed. The employee will be billed for the employee portion of the costs on an after-tax basis on the 7th and 22nd of each month.

b. Retirement Savings Plan (SCRP)

When an employee receives adjusted pay upon return from Military Leave, retirement savings plan benefit accruals and/or contributions will be made, subject to plan provisions.

c. Retiree Medical Eligibility

Time on Leave for Military Services counts toward official retiree medical eligibility.

d. Benefits in Cases of Termination

- Medical and Dental Coverage
  A regular employee whose University employment is terminated while the employee is on Military Leave may continue medical and dental coverages at the employee’s expense through COBRA for 18 months.

- Life Insurance
  Life insurance portability or conversion to an individual plan is available. The employee should contact Stanford Benefits at the time of termination for the appropriate forms.