Military Leave

Statutory References

The University of Nebraska shall comply with the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA) and Neb. Rev. Stat. Section 55-160 et seq. concerning the treatment of University employees with military obligations.

USERRA General Requirements

In general USERRA requires employers to grant leave to employees serving in the U.S. armed forces and the various reserve units; protects applicants and employees against discrimination on the basis of military service in the areas of hiring, job retention and advancement; provides certain rights to reemployment upon return from leave; and extends health care and retirement plan coverage during military leave.

Nebraska Statute

In accordance with the law, the University provides fifteen workdays of paid military leave per calendar year, without regard to the specific nature of the military leave (e.g. active military duty, annual training, emergency assignment, assignments of an unspecified length). Military service beyond fifteen workdays will be charged against accrued vacation or taken without pay, as designated by the employee within a reasonable time of receiving notice of his or her leave.

At least ten days prior to the beginning of military leave, employees must submit to the department a request for leave, together with copies of official orders. Only in situations of emergency or unusual circumstances will leave be granted without the requested documents.

Employee Responsibilities

Employees serving in the military are required to provide advance notice to the University concerning their military obligations when possible and must inform the University when they plan to return to work once they have been discharged from their military duties.

Annual Training Defined

Generally defined, annual training refers to that temporary duty in which military reserve personnel engage, commonly serving one weekend per month and two consecutive weeks during the year.

Emergency Duty

Leave will be granted to any employee, who is a member of the National Guard or any other reserve component, ordered to active duty under emergency conditions. Should the military pay
of such person be less than his/her full University pay, the University shall pay the differential while the person is in the active emergency service of the State.

**Insurance and Retirement Benefits under USERRA**

**Health Insurance** - Employees on military leave may continue medical and/or dental coverage for themselves and/or their dependents by paying the full cost of the premium (100%). This coverage may be continued for up to eighteen months from the date active military service began. Should the employee and/or dependents discontinue coverage, the coverage may be reinstated upon return from military service with no waiting period or exclusion for preexisting conditions.

**Life Insurance** - Employees on military leave may continue to participate in the group life insurance plan while on leave by paying the full premium. The Security Mutual Basic and Optional Plans, unlike many insurance programs, will cover the employee's death while on military duty; however, the Accidental Death and Dismemberment Plan does not cover claims associated with military service. Should the employee decide to discontinue any life insurance coverage, he/she may reinstate the coverage upon return to University employment without evidence of insurability.

**Other Insurance** - Long Term Disability coverage may not continue during military leave. Continued participation in reimbursement accounts is permitted.

**Retirement Benefits** - Once employment is reinstated, the employee may request retroactive participation in the basic plan, if otherwise qualified to participate. Upon paying his/her portion of the contribution to the retirement plan, the University will make the employer's retirement plan contribution. The amounts contributed will be based on the employee's compensation had he/she continued employment with the University. The employee may also make up contributions to the SRA plan.

**Family Military Leave** For purposes of adopting the Nebraska “Family Military Leave Act” in coordination with the Federal Family Medical Leave Act (FMLA), as amended, and the provisions thereof the following is provided:

Any employee may request family military leave, provided the employee: (1) has been employed by the University of Nebraska for twelve months preceding the request for leave; (2) has provided at least 1,250 hours of University of Nebraska service prior to the request for leave; and (3) is a member of the immediate family of the person called to military service lasting one hundred seventy-nine days or longer with the State of Nebraska or the United States pursuant to the orders of the Governor of Nebraska or the President of the United States.

The employee may request through their immediate supervisor 12 weeks of leave for “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call to active duty status, in support of a contingency operation; Or
An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Qualifying leave periods under the Federal Family Medical Leave Act (FMLA) and those of the Family Military Leave Act of Nebraska, for reasons cited in sections (a) and (b) will run concurrently.

Up to the extent it is available the employee may elect to apply accrued vacation or compensatory leave to family military leave period. Employees requesting five (5) or more consecutive days of family military leave shall provide at least fourteen (14) days’ prior notice, and where able, consult with their supervisor and schedule the leave to avoid undue work disruptions. For leave of less than five (5) consecutive days, employees shall give advance notice as is practicable.

Certification/proof of the call to service, from the proper military authority, may be required.

On expiration of the leave, the employee is entitled to be restored to the position held prior to commencement of the leave or to an equivalent position consistent with the requirements of the Act. Employees on family military leave, who are enrolled in the University’s insured benefit programs, may continue to participate in such programs and continue to receive employer contributions for the period of the leave. They are, however, responsible for their employee contribution required to maintain those insurance benefits when on an unpaid leave status.

This policy is intended to implement the Nebraska Family Military Leave Act, which is incorporated herein, along with any of the Act’s subsequent amendments. Should any inconsistency arise between this policy and the Nebraska Family Military Leave Act, the Act shall prevail, provided however, that if employee rights are explicitly provided in this or other University policies, which are greater than those required by the law, then the greater right shall be recognized and provided by the University.