



University Of Oklahoma Call-Up of Military Personnel Guidelines

According to federal and state law, the University must allow a leave of absence to any nontemporary employee for the period required to serve in the uniformed services of the United States. This document is designed to serve as a guideline for such leaves of absence. However, it does not include all relevant portions of federal and state law provisions. It is recommended that any questions be directed to the Office of Human Resources as indicated at the end of this guideline. Any person, whether a member of a Reserve Component, any branch of the armed forces of the United States, or the National Guard, who is absent from University employment because of service in the uniformed services is entitled to the following:

1. Reemployment. Subject to certain exceptions not delineated herein, the person is entitled to reemployment in the job the person would have attained, but for the absence, and with the same seniority, status and pay, as well as other rights and benefits determined by seniority, if:

- a. The University received advance written or verbal notice of the service.
- b. The cumulative length of the absence and all previous service absences with the University does not exceed five years, except in certain circumstances.
- c. The person reports to, or applies for reemployment to, the University within the time provided in 38 USC § 4312 (e).

38 USC §§ 4312 and 4313.

2. Vacation leave. Upon request by the person, he/she may use any accrued paid leave during the absence. The University may not require the person to use any such leave.

38 USC § 4316.

3. Health-plan coverage. The person may elect to continue University health-plan coverage during the absence for service under the following conditions:

- a. The maximum period of continued coverage is the lesser of (1) the 18-month period beginning with the absence, or (2) the day after the date the person fails to return to or apply for University reemployment as provided in 38 USC § 4312 (e).
- b. The University may require the person electing continued coverage to pay no more than 102 percent of the plan premium.
- c. If the absence is for less than 31 days, the person may not be required to pay more than the employee share of the plan premium.

38 USC § 4317.

4. Retirement Plans. Upon reemployment, the person shall not be treated as having incurred a break in service for the purposes of any retirement benefit plan by reason of such break. At the time of reemployment, the University is obligated to fund the employer contributions for any plans in the same manner and to the same extent as provided to other employees during the service period. Contributions, upon return, will be calculated based on either: (a) the rate the employee would have received but for the period of service, or (b) in the case that the determination of such rate is not reasonably certain, on the

basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).
38 USC § 4318.

5. Pay and Pay Differential. The following guidelines are applicable for military leaves on or after September 11, 2001 and during the period that "Operation Enduring Freedom" is in effect:

- a. During the first 30 regularly scheduled working days, employees will be placed on Leave With Pay status and receive their full regular pay.
- b. For leaves that extend beyond 30 regularly scheduled workdays, the University will pay the difference between the employee's full regular pay and their military pay, if any, but the employee shall be classified as on Leave Without Pay.
- c. Senate Bill 1088 allows members of the National Guard or any branch of the United States military ordered to active or inactive service 30 regular scheduled work days (increased from 20 days) of military leave during any federal fiscal year (October 1 thru September 30). The increase in calendar days is effective May 23, 2006.

44 O.S. §209; 72 O.S. §48

With respect to all other military leaves not during Operation Enduring Freedom, the employee's pay status is as follows:

- a. During the first 30 regularly scheduled working days, employees will be placed on Leave With Pay status and receive their full regular pay. After the first 30 regularly scheduled working days, the employee will be placed on Leave Without Pay status, unless they have chosen to use their paid leave. Once paid leave is exhausted, the employee will be placed on Leave Without Pay status. Upon return from military service, the employee must notify the University of his/her intent to return to work.
- b. Upon returning from military service and re-employment, employees who are entitled to pay for University-recognized holidays occurring during their leave of absence, not to include the first 30 regularly scheduled working days, should contact their HR Representatives as indicated below.
- c. Senate Bill 1088 allows all members of the National Guard or any branch of the United States military ordered to active or inactive service 30 regular scheduled work days (increased from 20 days) of military leave during any federal fiscal year (October 1 thru September 30). The increase in calendar days is effective May 23, 2006.

You may contact your local Human Resources office for further information. In any event, information provided by the University, including the information contained in this memorandum, is general in nature, advisory only, and should not be used as a substitute for the actual provisions of the law. Human Resources contacts are: Employee Relations @405-325-5594 (OU-Norman Campus; @405-271-219 OUHSC; and 918-660-3190 OU-Tulsa, for questions and further clarification.

Applicable state and university policy is as follows:

The University's Military Leave policy is in conformance with applicable state law.

Title 44 OS § 209 provides that:

All officers and employees of the state, or a political subdivision thereof, who are members of the National Guard or any branch of the United States military, shall, when ordered by proper authority to active service or inactive service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating. During the first thirty (30) calendar days for employees of political subdivisions or the first thirty (30) regularly scheduled work days for state employees of such leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of such leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay them an amount equal to the difference between the officers or employees full regular pay

from the employing state agency or political subdivision and their National Guard or any branch of the United States military pay; except that state officers and employees shall receive the difference between their full regular pay and their National Guard or any branch of the United States military pay when they are ordered by proper authority to active or inactive service retroactive to the date that the state officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of their positions during such absence, the authority having power to fill a vacancy in the positions may appoint substitutes, to be known as acting incumbents, who shall qualify as required for the regular incumbent and shall receive the same pay as fixed by law, if any, or otherwise such pay as may be fixed by proper authority.

Title 72 OS § 48 (amended May 23, 2006) provides as follows:

All officers and employees of the state, or political subdivision thereof, who are members, either officers or enlisted, of the Reserve Components, to include the Army and Air National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves, or any other component of the Armed Forces of the United States, shall, when ordered by the proper authority to active or inactive duty or service, be entitled to a leave of absence from such civilian employment for the period of such service without loss of status or seniority. During the first twenty (30) calendar days for employees of political subdivisions or the first twenty (30) regularly scheduled work days for state employees of such leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of such leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay the officer or employee an amount equal to the difference between their full regular pay from the employing state agency or political subdivision and their military pay; except that state officers and employees shall receive the difference between their full regular pay and their National Guard or any branch of the United States military pay when they are ordered by proper authority to active or inactive service retroactive to the date that the state officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of their positions during such absence, the authority having power to fill a vacancy in the positions may appoint substitutes, to be known as acting incumbents, who shall qualify as required for the regular incumbents and shall receive the same pay as fixed by law, if any, or otherwise such pay as may be fixed by proper authority.

Other procedural questions may be asked. Below is a summary of the most frequently asked questions and appropriate responses:

1. How should time off for active duty be reported? A Change of Status form is needed for absences beyond ten working days. The first 30 calendar days of each federal fiscal year (October 1 through September 30) should be reported as leave with pay. As of July 1, 2005, for National Guard or any branch of the United States military the first 30 calendar days of each federal fiscal year (October 1 through September 30) should be reported as leave with pay. Any additional time necessary would be leave without pay unless the employee chooses to use paid leave.

2. Will OU insurance coverage continue? If you are currently in a benefit eligible position, all applicable benefits will continue as follows: All university insurance coverage could continue during leave without pay at employee expense except for employee life insurance. The University of Oklahoma will comply with all state and federal laws regarding benefits.