



## POLICY & PROCEDURE DOCUMENT

NUMBER: 4.6851

DIVISION: Finance and Administration

TITLE: Military Leave

DATE: May 1, 1989

REVISED: September 24, 2001; June 1, 2018

Policy for: All Full Time and Part Time Employees

Authorized by: Director, Human Resources

### I. Purpose and Scope

The purpose of this policy is to establish the University's support and commitment to persons who serve or have served in the active and Reserve components of the U.S. armed forces and to provide rights and benefits required under the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and under Kentucky state law. The requirements of this policy are to ensure covered persons 1) are not disadvantaged in their WKU employment because of their service; 2) are promptly reemployed on return from duty; and 3) are not discriminated against in employment practices based on past, present or future military service.

It should be noted that Kentucky state law provides for greater paid military leave than that provided under USERRA which is established as ten (10) working days.

### II. Policy

#### A. General Provisions

1. All regular full-time and part-time employees who have completed one (1) day of employment with the University immediately prior to the effective date of an order to report for military leave, are eligible for such leave.
2. Employees who are members of the Armed Forces, Reserves, National Guard or other "uniformed services" shall be granted leave **with pay** for up to fifteen (15) working days (112.5 hours) each year (between October 1 and September 30) for active service or volunteer training. Any unused military leave within a federal fiscal year shall be carried over to the next year. Any unused military leave shall expire two (2) years after being accrued.

(Reference KRS 61.394: twenty-one (21) calendar days equate to fifteen (15) working days based on WKU's five-day workweek.

Military leave that extends beyond fifteen (15) working days shall be **without pay**, unless the employee elects to use accrued vacation leave.

3. An employee who is called to active duty must provide advance written notification to his/her department/unit head unless precluded by military necessity. Official *military orders* are valid for this purpose.
4. The University reserves the right to disapprove a military leave request for *voluntary* military service when an employee's voluntary cumulative service exceeds five (5) years.

#### **B. Benefits During a Military Leave**

1. Employee benefits will be continued during a military leave just as if continuously employed. The University will continue to pay any share of premiums paid for active employees. Prior to a military leave, provisions must be made for timely payment of any premiums/contributions due by the employee to ensure uninterrupted coverage for themselves and any family members.
2. During a period of military leave, any accrued and accumulated vacation leave may be used, at the option of the employee. Prior to initiating military leave, the affected employee should provide notice to his/her department/unit head regarding preferences for use of vacation leave. Employees *shall not* be required to use accumulated vacation leave.
3. Vacation and sick leave will not continue to accrue during any **unpaid** leave period. Military leave will count as active employment for purposes of determining the appropriate vacation and sick leave accrual rate. Upon return to active employment following a military leave, vacation and sick leave balances will be restored and immediately available to the employee.
4. During any period of *unpaid* military leave, no retirement contributions are paid by the University or by the employee on military leave. Upon return to active employment, employees may receive service credit by paying the appropriate contributions according to regulations established by the applicable retirement system.

### **III. Procedure**

#### **A. Reemployment Upon Completion of Military Leave**

1. Upon completion of military leave, an employee must return to employment or otherwise provide notice to his/her department/unit head. If the military service was for a period of less than 31 days, the return to employment must occur within two (2) working days. If the military service was for a period of 31 – 180 days, the employee must return to employment or otherwise provide notice within 15 calendar days of discharge. If the employee's military service extended beyond 180 days, he/she must return to employment within 90 calendar days of discharge.
2. An employee returning from military leave shall return to the same position he/she would have had if continuously employed. In cases where military leave exceeds 90 days, an

employee may be given a *different* job if substantially equivalent to the position held before initiating military leave. The employee must be awarded any promotions and pay increases (as if continuously employed) which are awarded to similarly situated employees.

3. The University will seek to reasonably accommodate employees who become disabled because of military service or whose prior disability is aggravated by military service.

**B. Job Protection**

1. Employees who return to work after a military leave greater than 30 days but less than 181 days, may not be discharged without cause for six (6) months following reemployment. If the military leave was for more than 180 days, job protection is extended to twelve (12) months.

**IV. Exclusions**

**V. Related Policies**

See also: Uniformed Services Employment and Reemployment Rights Act (USERRA); KRS 61.373; KRS 61.394

**VI. Reason for Revision**

To adjust the total working days available as paid leave in compliance with state law.

Appendices: