

## 4.04 Military Leave

McPherson College is committed to protecting the job rights of employees absent due to military leave. It is the policy of McPherson College to comply with the Uniformed Services Employment and Reemployment Act of 1994 as amended (USERRA) and all other applicable federal and state laws which protect job rights and benefits for veterans and members of the armed services. No employee or prospective employee will be subjected to any form of discrimination on the basis of membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, promotion, or other benefit of employment on the basis of such membership. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under this policy.

- Temporary (two-week) Military Leave: In addition to the rights and benefits provided to employees taking Extended Military Leave (as described in this policy), eligible employees who must be absent from their job for a period of not more than ten (10) working days each year in order to participate in temporary military duty are entitled to as many as ten (10) days unpaid military leave. All benefits will continue during an employee's temporary military leave.
- Extended Military Leave: Employees directed to participate in extended military duties in the U.S. Armed Forces that exceed ten (10) working days will be placed on an unpaid military leave of absence status for a period of as long as five (5) years and will be entitled to the rights and benefits described below, subject to the procedures outlined below.

### Procedures

1. The employee will provide his or her immediate supervisor with notice that the employee will be engaging in military service, including, where feasible, a copy of the orders directing the military duty, unless the employee is prevented from doing so by military necessity. Employees are requested to provide such notice within 30 day of active military service when feasib
2. To request a temporary or extended military leave of absence, the employee should, unless prevented from doing so by military necessity, obtain a Request of Leave of Absence Form from Human Resourc
3. Human Resources will review and sign the Request for Leave of Absence Form, collect any applicable insurance premiums from the employee, and process accordingly.
4. Employees on temporary or extended military leave may, at their option, use any or all accrued paid vacation during their absence.
5. When the employee intends to return to work, he or she must make application for reemployment to Human Resources within the application period set forth below.
6. If the employee does not return to work, the supervisor must notify Human Resources so that appropriate action may be taken.

## **Benefits**

If an employee is absent from work due to military service, benefits will continue as follows:

- An employee on extended military leave may elect to continue group health insurance coverage for the employee and covered dependents under the same terms and conditions for a period not to exceed 31 days from the date the military lave of absence begins. The employee must pay, per pay period, the premium normally paid by the employee. After the initial 31 day period, the employee and covered dependents can continue group

health insurance up to 24 months at 102% of the overall premium rate. Beginning after the first 31 days of military leave, group health insurance coverage for an employee and/or an employee's covered dependents will run concurrently with applicable health insurance coverage under COBRA.

- The group term life/AD&D insurance provided by the College will terminate the day the employee begins active military duty.
- The group long term disability insurance provided by the College will terminate the day the employee begins active military duty.
- Employees do not accrue vacation or sick leave while on military leave of absence status.
- With respect to the College's retirement plan, upon reemployment, the employee may elect to make any or all employee contributions that the employee would have been eligible to make had the employee's service not been interrupted by active duty military service. Such contributions must be made within a period that begins with the employee's reemployment and is not greater in duration than three times the length of the employee's military service.

## **Reemployment**

Upon an employee's prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending upon the employee's period of military service:

- *Less than 91 day of military service*
  - in a position that the employee would have attained if employment had not been interrupted by military service; or
  - if found not qualified for such position after reasonable efforts by the College, in the position in which the employee had been employed prior to

military service.

- *More than 90 days and less than 5 years of military service*
  - in a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status, and pay, the duties of which the employee is qualified to perform;
  - if proved not qualified after reasonable efforts by the College, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
- *Employee with a service connected disability* – if after reasonable accommodation efforts by the employer, and employee with a service-connected disability is not qualified for employment in the position he or she would have attained or in the position that he or she left, the employee will be employed in:
  - any other position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the College; or
  - if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

### **Application for Reemployment**

An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, submit an application for reemployment according to the following schedule:

- *If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service)* – the employee must report for reemployment at the

beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.

- *If service is for 31 days or more but less than 180 days* – the employee must submit an application for reemployment with Human Resources no later than 14 days following the completion of service.
- *If service is over 180 days* – the employee must submit an application for reemployment with Human Resources no later than 90 days following the completion of service.
- *If the employee is hospitalized or convalescing from a service-connected injury* – the employee must submit an application for reemployment with Human Resources no later than two years following completion of service.

### **Exceptions to Reemployment**

In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if any of the following conditions exist:

- The College's circumstances have so changed to make reemployment impossible or unreasonable.
- The employee's employment prior to the military service was merely for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely for a significant period.
- The employee did not receive an honorable discharge from military service.

### **General Benefits Upon Reemployment**

Employees reemployed following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any

additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. In addition, an employee's time spent on active military duty will be counted toward their eligibility for FMLA leave once they return to their job at McPherson College.

If any employee believes that he or she has been subjected to discrimination in violation of this policy, the employee should immediately contact the Human Resource department.