

CALIFORNIA INSTITUTE OF TECHNOLOGY
STAFF PERSONNEL MEMORANDA

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| Subject: Military Leaves | Memo No. 15-7 Pages: 6 Date: May 17, 2024 |
| Approved by: Julia M. McCallin, Associate Vice President for Human Resources, Chief Human Resources Officer | |

(This supersedes Memo No. 15-7, dated July 24, 2012)

1.0 Policy

It is the policy of the Institute to support employees who perform military services and to comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other applicable Federal and state laws and regulations.

2.0 General

This policy describes the most common military leaves. In addition, the Family Medical Leave Act (FMLA) entitles eligible employees to take leave for ‘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 (see Employee Medical and Family Care Leaves).

Military leave and reinstatement protections extend to employees who are full-time, part-time, probationary, or seasonal employees; temporary employees unless they have no realistic expectation of ongoing employment. The Institute will reinstate employees who return from military service in compliance with USERRA and other applicable law.

Employees who perform service in the uniformed services are eligible to take military leave as described below. Service in the uniformed services means duty performed on a voluntary or involuntary basis in a uniformed service, including active duty, inactive and active-duty training, full-time National Guard duty, any time spent undergoing fitness-for-duty examinations, funeral honors duty, and duty performed by intermittent employees of the National Disaster Medical System in training exercises or in response to public health emergencies. Uniformed services include the U.S. Armed Forces and Reserves, the Army National Guard and Air National Guard, the Commissioned Corps of the Public Health Service, and any other category of persons designated by the president in time of war or emergency. Employees who serve as intermittent disaster response appointees of the National Disaster Medical System and are federally activated or attending authorized training are considered engaged in service in the uniformed services.

3.0 Types of Leave

3.1 Military Training Leave

Eligibility

Employees who perform service in the uniformed services or the California State Guard,

and other persons designated by law, are eligible to take time off to participate in military training.

Amount and Type of Payment

Eligible, benefit based employees will be paid regular base wage or salary, plus any applicable shift premium or special pay allowances, for up to seventeen (17) workdays in each calendar year. Employees who are on leave for military training in excess of seventeen (17) workdays per year will be considered to be on Military Training Leave of Absence without pay. They may use vacation to the extent they are eligible for such payments or may choose leave without pay.

Employee's Responsibilities

Employees are responsible for notifying their supervisor and the Disability and Leave Administration Unit of Human Resources (DLAU) at Campus and the Leaves and Accommodations Unit of Human Resources at JPL that a leave is required before leaving for military training unless it would be impossible, unreasonable, or precluded by military necessity.

Employees must submit a Leave of Absence Request when requesting a leave of five (5) or more workdays and provide a copy of their official orders or other available written documentation. Employees at Campus should obtain their supervisor's signature on the Leave of Absence Request Form prior to forwarding it to Human Resources. Employees at JPL should submit an electronic Leave of Absence Request form.

Return to Work Following Military Training Leave

Employees who return to work from Military Training Leave will return to the position they held prior to the leave or as otherwise required by law.

3.2 Active Service Military Leave

Eligibility

An employee who voluntarily enters military service or is called to active duty in the uniformed services is eligible for Active Service Military Leave.

Maximum Length of Active Service Military Leave

On Active Service Military Leave will be permitted a cumulative total of five (5) years of leave for military service.

Amount and Type of Payment

Eligible, benefit based employees may be paid their regular base wage or salary, plus any applicable shift premium or special pay allowances, for up to forty-four (44) workdays when called to active duty.

After the forty-four (44) workdays have elapsed, an employee may choose to be paid their vacation, if available, or they may elect to retain all or a portion of their vacation time and go on an Active Service Military Leave of Absence without pay.

Employee's Responsibilities

Employees are responsible for notifying their supervisor and the Disability and Leave Administration Unit of Human Resources (DLAU) at Campus and the Leaves and Accommodations Unit of Human Resources at JPL that a leave is required before leaving for active duty unless it would be impossible, unreasonable, or precluded by military necessity.

Employees must submit a Leave of Absence Request when requesting a leave of five (5) or more workdays and provide a copy of their official orders or other available written documentation. Employees at Campus should obtain their supervisor's signature on the Leave of Absence Request Form prior to forwarding it to Human Resources. Employees at JPL should submit an electronic Leave of Absence Request form.

Reinstatement Following Active Service Military Leave

If the following requirements are met, employees returning from Active Service Military Leave will be reinstated to the position they held prior to the leave or as otherwise required by law:

- The employee provided advance notice Caltech that that they were leaving the job for service in the uniformed services as provided herein, unless such notice was precluded by military; necessity or otherwise impossible or unreasonable;
- The employee has not been gone from work longer than the five-year statutory limit on cumulative periods of military service as defined by law;
- The employee is released from active service under "honorable conditions";
- The employee returns to work or applies for reemployment in a timely manner after their service ends as provided below.

Please refer to the chart below for additional detail regarding reinstatement rules. Employees should provide written notification to the Disability and Leave Administration Unit of Human Resources (DLAU) at Campus and the Leaves and Accommodations Unit of Human Resources at JPL of their intent to return to work within the time specified below along with documentation evidencing their release from service under honorable conditions. Failure to notify DLAU or the Leaves and Accommodations Unit respectively, within the timeframes specified below may be considered to have abandoned their position and to have voluntarily resigned.

| Length of Military Duty Leave | Time to Provide Notice to Return |
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| Less than 31 days | Must report to work by the start of the next regularly scheduled work period following duty (allowing for 8 hours after the travel time necessary for the individual to return home safely or as soon as possible if the delay is through no fault of the individual). |
| 31-180 days | No later than 14 days after completing service or as soon as possible if the delay is through no fault of the individual. |
| 181 or more days | No later than 90 days after completing service. |

Caltech will provide any training which may be necessary to update skills necessary for the employee to perform his or her duties.

The time limits noted above may be extended if an employee is hospitalized or convalescing from injury or illness incurred while in military service. In the case of an employee with a service-related disability, the university will make reasonable efforts to accommodate the disability so the person can perform the duties of that position that he or she would have held without the interruption of military service. If the disability makes performance of that job impossible, even after reasonable accommodation, Caltech will make reasonable efforts to provide a position with comparable status, pay and benefits. If neither option is possible due to the person's disability, Caltech will provide a position as comparable as possible, consistent with the circumstances of the employee's individualized circumstances.

Under USERRA, a reemployed employee may not be discharged without cause: (1) For one year after the date of reemployment if the person's period of military service was for 181 days or more; (2) For 180 days after the date of reemployment if the person's period of military service was for 31 to 180 days.

For employees with circumstances such as disability or leaves extending more than 90 days, additional legal requirements may apply to the employee's reinstatement.

3.3 Military Spousal Leave

Employees who have a spouse or domestic partner who is a qualified member (defined below) of the Armed Forces, National Guard, or Reserves may take up to ten (10) workdays of leave during a qualified leave period (defined below) for the military spouse or domestic partner.

Military Spousal Leave is unpaid unless an employee wishes to use vacation. Vacation and sick leave will not continue to accrue during the unpaid portion of leave.

This policy, to the extent it does not conflict with other applicable federal, state, or local laws, also covers Institute employees working on assignment outside of California.

Eligibility

An employee must meet all of the following criteria to be eligible for Military Spousal Leave:

- Works an average of 20 or more hours per week.
- Whose spouse or domestic partner is a qualified member of the Armed Forces, National Guard or Reserves who has been deployed to a scene of “military conflict” (defined below).
- Who provides notice of intent for leave within two business days of receiving official notice that the qualified member will be on leave from deployment.

Procedures

Employees are responsible for notifying their supervisor and Human Resources that a leave is being requested within two business days of receiving official notice that the qualified member will be on leave from deployment.

Employee must provide a copy of the official notice of leave from deployment to Human Resources prior to the leave, certifying that the qualified member will be on leave from deployment during the time that the employee requests leave. Leaves of Absence of ten (10) workdays require the submittal of a Leave of Absence Request Form.

Military Spousal Leave Definitions

Qualified member means a member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States; a member of the National Guard who has been deployed during a period of military conflict; or a member of the Reserves who has been deployed during a period of military conflict.

Qualified leave period means the period during which the qualified member is on leave from deployment during a period of military conflict.

Military conflict means a period of war declared by Congress or a deployment authorized under specified sections of the federal Armed Forces Code.

4.0 Holiday, Vacation, Sick Leave and Service Accrual

4.1 An employee will be paid, for any Institute holiday that is observed while they are receiving pay from the Institute.

4.2 Vacation and sick leave accrual will continue while an employee is on paid status. If applicable, employees who are reinstated following a military leave will have their vacation accrual rate adjusted to the rate they otherwise would have received had they not been on military leave.

4.3 Employees are not permitted to accrue or use sick leave during the unpaid portion of a Military Training, Active Duty, or Military Spousal Leave.

4.4 Institute service time will continue to accrue while an employee is on leave due to military service.

5.0 Employee Benefits

5.1 Insurance

During the paid portion of the leave, all insurance benefits will continue as if the employee were actively at work. During an unpaid Military Leave, employees will have the option to continue group insurance plans in accordance with Institute policy and applicable law. Human Resources will contact the employee regarding benefits coverage, premium amounts and payment due dates. Continuation of coverage is contingent upon timely receipt of employee premiums. Any benefit coverage that is cancelled during the leave may be reinstated upon the employee's return to work.

5.2 Retirement

During the paid portion of the leave, retirement contributions will continue as though the employee were actively at work. For employees on unpaid military leave, the Institute will provide employer- contributions to the TIAA-CREF plan in accordance with provisions of USERRA. Employees will also have the opportunity to make voluntary and/or mandatory contributions that could have been made during an unpaid military leave in accordance with USERRA provisions.

The Summary Plan Description (SPD) as well as the Benefits Office may be consulted for additional detail about the status of employee benefits before, during or following a leave of absence.

6.0 Exceptions

Any exception to this policy requires the approval of the Associate Vice President for Human Resources for campus staff, or of the Director for Human Resources at JPL for JPL staff, or their designee(s).

7.0 Related Policies

[PM 26 Employee Medical and Family Care Leaves](#)

- *Qualifying Exigency Leave*
- *Military Caregiver Leave under Family Medical Leave Act (FMLA)*