



TOPIC: Revisions Board Policies VII – 7.23 Military Leave with Pay for Exempt and Nonexempt Staff Employees on Regular Status and VII – 7.24 Call-up to Active Military Duty During a National or International Crisis or Conflict for USM Exempt and Nonexempt Staff Employees on Regular Status

COMMITTEE: Finance

DATE OF COMMITTEE MEETING: June 15, 2010

SUMMARY: Policy VII-7.23 defines eligibility for Military Training Leave and Military Administrative Leave, while Policy VII-7.24 defines benefits while on Military Administrative Leave. The provisions of Military Administrative Leave in VII-7.23 and the provisions of Policy VII-7.24 were, by State law, subject to abrogation on June 30, 2005.

The abrogation language has been deleted as a result of action taken by the Maryland General Assembly in its 2005 legislative session.

ALTERNATIVE(S): These are changes are required by law.

FISCAL IMPACT: The fiscal impact is estimated to be minimal.

CHANCELLOR'S RECOMMENDATION: That the Finance Committee recommend that the Board of Regents approve the policies as presented.

COMMITTEE RECOMMENDATION: The committee did not act on this item. Revised policies are attached. DATE: 6/15/10

BOARD ACTION: DATE:

SUBMITTED BY: Joseph F. Vivona (301) 445-1923

BOR 06-18-2010 Meeting - REVISIONS – REMOVAL OF ABROGATION LANGUAGE, IN SECTION II.C.; II.C.10. and REFERENCE SECTION.

VII - 7.23 – USM POLICY ON MILITARY LEAVE WITH PAY FOR EXEMPT AND NONEXEMPT STAFF EMPLOYEES ON REGULAR STATUS

(Approved by the Board of Regents, February 28, 1992; Amended December 6, 2002; Amended January 1, 2003; Amended October 17, 2003; Amended September 10, 2004; Amended -Date-)

I. PURPOSE AND APPLICABILITY:

To establish a leave category called Military Leave for all Exempt and Nonexempt Staff employees on Regular Status which permits an employee, under certain circumstances, to be absent from duty without loss of any pay or without charge to the employee's accrued leave.

II. GENERAL

A. MILITARY TRAINING LEAVE

An employee who is a member of the organized militia, of the Army, Navy, Air Force, Marine or Coast Guard Reserve, shall be entitled to a leave of absence for military training for a period of not more than 15 work days (pro-rated for part-time personnel) in any calendar year without loss of pay or charge to any leave.

B. ACTIVE MILITARY DUTY

An employee who is called-up to active military duty during a national or international crisis or conflict shall follow USM policies VII-7.24. **Commencing July 1, 2003**, to the extent that there is any inconsistency between Section II of USM Policy VII.7.24 and Section II.C. of this Policy VII-7.23, Policy VII-7.23 shall take precedence.

C. MILITARY ADMINISTRATIVE LEAVE

An employee who **is on active military duty, or activated for military duty on, or after July 1, 2003**, shall provide military orders that contain the employee's name, dates for activation, and purpose/type of activation and shall be entitled to receive Military Administrative Leave as follows:

- 1.** Before starting an employee on Administrative Military Leave, the employee shall use the 15 days of Military Training Leave provided under section II.A., above.

2. An employee eligible to receive Military Administrative Leave under this section shall elect to use either Military Administrative Leave or paid accrued leave (Annual, Personal and/or Holiday Leave only).
3. The amount of compensation, while on Military Administrative Leave, shall be the amount, if any, by which the employee's state base salary exceeds the employee's active duty base salary paid by the Federal government. The employee shall continue to earn Annual, Personal, Holiday and Sick Leave on a prorated basis for only the hours paid by the State during this period of military duty.
4. The USM Administrative Leave-Active Military Duty worksheet shall be used to calculate the number of leave hours to be paid to the employee. The employee shall be notified in writing of the amount of leave hours to be paid each pay period.
5. The employee shall submit an initial and a final copy of his/her military pay stub or other official military personnel record which includes a current date and his/her military base pay rate.
6. Payroll deductions shall be made in the following order:
 - a. taxes
 - b. liens and levies
 - c. deferred compensation
 - d. other deductionsIn the event that the new State compensation is insufficient to cover all selected deductions, this ranked order shall be followed. The employee should make changes to his/her payroll deductions as appropriate for the new State compensation amount.
7. State health benefits (Medical, Prescription and Dental) may be continued at no cost to the employee for the duration of his/her active military duty status. There shall be no deductions for State Retirement contributions. Employees shall be billed directly by the State for Life Insurance, Personal Accidental Death and Dismemberment, Long-Term Care Insurance, and Flexible Spending Accounts, in order to continue these benefits.
8. Military Administrative Leave will cease on the termination date of the employee's original (or subsequently submitted extended) military orders or upon deactivation, whichever is earlier.
9. It is the employee's responsibility to notify his/her supervisor of the termination date of the active military duty. If the employee fails to notify his/her supervisor of the deactivation, and or chooses not to return to University employment, the employee shall be responsible for reimbursement for the paid leave used while not on active duty status and

may be subject to disciplinary action. The period an individual has to report back to work after military service is based on USERRA /US Department of Labor regulations.

IMPLEMENTATION PROCEDURES:

Each Chief Executive Officer shall identify his/her designee(s) as appropriate for this policy; shall develop procedures as necessary to implement this policy; shall communicate this policy and applicable procedures to his/her institutional community; and shall forward a copy of such designations and procedures to the Chancellor.

REPLACEMENT FOR:

UM Personnel Policies and Rules for Classified Employees - Section VI - Leave with Pay, page VI-14.

UM Personnel Policies and Rules for Associate Staff - Section I.5, Military Leave, page 26.

Laws Relating to and Governing Policies and Procedures of the Board of Trustees of the State Universities and Colleges of Maryland, Section VI. Administrative Officers, Page VI-3.

BOR III-12.00, Policy on Academic Administrators/Associate Staff Time Keeping Record, page 3.

REFERENCE:

Annotated code of Maryland, State Personnel and Pension Article, Section 9-1107; Section II.C. subject to abrogation on June 30, 2005 was made permanent by the General Assembly in their 2005 session.

(11-27-07 RV; 12-6-07 SHRC; 2-4-2010 /SHRC; 3-2010 AdminVPs; OAG 3-30-2010; ChCncl-5/3/2010; FIN-BOR-6/15/2010; BOR-6/18/2010))

BOR 06-18-2010 REVISIONS – REMOVAL OF ABROGATION LANGUAGE, SECTION I. and REFERENCE SECTION.

VII – 7.24 USM POLICY ON CALL-UP TO ACTIVE MILITARY DUTY DURING A NATIONAL OR INTERNATIONAL CRISIS OR CONFLICT FOR USM EXEMPT AND NONEXEMPT STAFF EMPLOYEES ON REGULAR STATUS.

(Approved by the Board of Regents, October 5, 2001; Amended December 6, 2002; Amended October 17, 2003; Amended September 10, 2004; Amended - Date-)

I. PURPOSE AND APPLICABILITY

The purpose of this policy is to provide procedures consistent with the health and retirement benefits programs administered by the State of Maryland; the USM policy on return to work; and the USM policies on tuition remission, upon call-up to active military duty during a national or international crisis or conflict by order of the President of the United States. The policy is not intended to take precedence over Article 65, Section 42, of the Annotated Code of Maryland and Federal law for orders to active military duty made by the Governor of the State of Maryland. **Comencing July 1, 2003**, to the extent that there is any inconsistency between Section II of this Policy VII-7.24 and Section II.C. of Policy VII-7.23, Policy VII-7.23 shall take precedence.

The policy applies to full-time and part-time USM Exempt and Nonexempt Staff employees on Regular Status.

II. CONTINUATION OF HEALTH BENEFITS

A. Military Reserves – Paid Leave

1. Upon call-up to active military duty during a national or international crisis or conflict, an employee shall submit a copy of the military orders to his immediate supervisor and may elect to use accrued leave to remain on the payroll. In the absence of such an election, or upon the exhaustion of accrued leave, the employee shall be placed on Leave Without Pay Status.
2. While on the active payroll, a reservist shall have the same benefit deductions, unless the reservist files an Active Employee Enrollment Form to cancel any or all benefits within 60 days of entry into Active Duty. A copy of the military orders must be submitted with the Active Employee Enrollment Form. If the Active Employee Enrollment Form is not completed to cancel any or all deductions, the same deductions shall continue as long as the employee remains on active payroll.
3. Personal Accidental Death and Dismemberment (PA&D) plan shall not provide benefits to anyone injured in military service. Benefits shall be provided, as

appropriate, to a spouse or child if the employee has family coverage. A military reservist with PA&D "individual" coverage should cancel deductions while on paid leave status, as PA&D plan shall not honor any claims for the employee while on military duty. The employee can elect to continue PA&D "Family" coverage.

4. While on active military service, any medical care provided to the employee is through the military. All of the State medical plans have blanket exclusions for medical care rendered while a person is on active duty while serving in the military; this is a standard exclusion clause.
5. Dependents of military personnel on active duty are automatically covered by CHAMPUS, a federal military health program. An employee called to active duty may elect to discontinue state health benefits coverage for his or her dependents, relying upon CHAMPUS for dependent health care coverage. In the alternative, the employee may elect to continue state health benefits coverage for his or her dependents. As the dependents are not on active military duty, the state health benefits coverage shall be the primary coverage for these dependents.

B. Military Reserves - Leave without Pay

1. If the military reservist goes on a Leave Without Pay status, the employee may elect to continue benefits as a "Military LAW" employee. The employee should complete the "COBRA/LAW/Contractual/Part-time" Enrollment Form. The Institution Benefits Coordinator and Fiscal Officer should complete the agency verification portion of the form and identify the employee as "Military LAW" on the form. The Fiscal Officer should also complete the appropriate fiscal designation portion of the form.
2. Subsidization for Health, Prescription and Dental Plans: While on active military duty, the employee contribution and State contribution for health benefits shall continue if the reservist elects to continue health, prescription and dental plans. Accordingly, the employee shall not be billed for these three types of benefits plans, if they choose to continue them while on Military LAW. Therefore, it is critical that the Fiscal Officer completes the fiscal designation portion of the form, as the USM shall be charged for the full amount of the premiums (employee plus State portions) for the health, prescription and dental plans.
3. Employee-Pay-All Plans (State Life Insurance, Flexible Spending Accounts, PA&D, State Long Term Care, USM Life Insurance, USM Long Term Disability, etc.). These types of benefits plans are "Employee-Pay-All" and are not subsidized. An employee who elects to continue these benefits shall be billed by the State and coupons shall be provided for payment to the State. State Long-Term Care, USM Life Insurance and USM Long Term Disability continuation payments shall be paid directly to the vendor. The premium payments while on the Military LAW will be post-tax and will not affect the employee's W-2 status.

4. When active duty is completed and the employee returns to USM employment, the employee must file an Active Employee Enrollment Form (with the discharge papers attached to the form) within 60 days of the discharge date to start benefit deductions from his/her University paycheck.

III. STATE RETIREMENT AND PENSION SYSTEMS

- A. All employees called up for military service should complete MD Retirement Agency Form 46, "Application to be Placed on a Qualified Approved Leave of Absence." Although Form 46 is not formally for a leave of absence, it should be used to notify the Retirement Agency of the member's military activation. If a member has already been called up and cannot complete the form, the USM institution can submit it on behalf of the called-up employee.
- B. If an employee returns to work within one year of release from active duty and did not accept other permanent employment, the employee will be reinstated in the pension/retirement system and will receive service credit for the term of the military service. The employee does not need ten years of creditable service to claim service for military action that interrupts membership. The employee shall submit Form 43, "Claim of Retirement Credit for Active Duty Military Service" with the proper military documentation when the employee returns to work.
- C. Service credit will be given for up to five years of military service that interrupts membership. This is in addition to the five years for military credit for service prior to membership.
- D. An employee is not required to make up missed contributions. The member's missed contributions and employer's contribution costs are included in the annual valuation done by the actuary to determine the cost to employers.
- E. Filing Date for Form 46 "Application to be Placed on a Qualified Approved Leave of Absence":
 1. Military Leave Without Pay - the filing date on Form 46 shall be the date that the employee begins active duty.
 2. Military Leave With Pay - the filing date on Form 46 shall be the date that the employee has exhausted all accrued leave and begins Leave Without Pay.
- F. Military Reserves –Killed in the Line of Duty or Disability while on Leave With Pay

An employee who is killed in the line of duty or who sustains serious injuries, making it impossible for the member to return to work, and such death or injury occurs while on Leave With Pay Status, is entitled to the same death and disability benefits as an active employee. Surviving beneficiaries shall receive a lump sum payment of the

annual salary plus contributions or, if the spouse law comes into effect a monthly check for life. If disabled during active duty military service, an employee still on Leave With Pay Status, may file for an ordinary disability benefit but not an accidental disability benefit.

G. Military Reserves – Disability or Killed in the Line of Duty while on Leave Without Pay

An employee killed in the line of duty, or who sustains serious injuries making it impossible to return to work, and such death or injury occurs while on Leave Without Pay Status, will not receive a death benefit or have the right to file for a disability benefit from the State Retirement Agency. If the employee should die, only the employee's contributions with interest will be paid to the beneficiary.

IV. OPTIONAL RETIREMENT PROGRAM – LEAVE WITH AND WITHOUT PAY

- A. The activation date of approved military leave should be the date that the employee is activated.
- B. As a condition of membership in the Optional Retirement Program, no death benefit or right to file for a disability benefit from the State Retirement Agency is available.
- C. While still on the payroll, employer contributions to the employee's ORP and State service credit shall continue.
- D. No State service credit shall accrue, nor employer contributions shall be made, while the employee is on Leave Without Pay. Upon return to work, USM employer contributions shall resume.

V. USM TUITION REMISSION BENEFIT

- A. An employee who is currently in a degree-seeking program and using tuition remission may continue to use tuition remission if called to active duty and stationed locally.
- B. An eligible spouse/dependent currently in a degree-seeking program and using tuition remission may continue to use tuition remission.
- C. If an employee is killed in the line of duty, spouse/dependent tuition remission benefits shall be provided in accordance with the USM Policy on Tuition Remission for Spouse and Dependents.
- D. If an employee does not return to USM service, tuition remission for the employee, spouse and dependents shall terminate.

VI. REPORTING BACK TO WORK

The period an individual has to report back to work after military service is based on USERRA /US Department of Labor regulations.

IMPLEMENTATION PROCEDURES

Each Chief Executive Officer shall identify his/her designee(s) as appropriate for this policy; shall develop procedures as necessary to implement this policy; shall communicate this policy and applicable procedures to his/her institutional community; shall forward a copy of such designations and procedures to the Chancellor.

REPLACEMENT FOR:

N/A

REFERENCE:

Annotated Code of Maryland, State Personnel and Pension Article, Section 9-1107; last sentence in Section I., previous language subject to abrogation on June 30, 2005 followed MD Code language was made permanent by the General Assembly in their 2005 session.

(11-27-07 RV; 12-6-07 SHRC; 2-4-2010 SHRC; 3-2010 AdmnVPs; OAG 3-30-2010; ChCncl-5/3/2010; FIN-BOR-6/15/2010; BOR-6/18/2010)