

**MILITARY LEAVE
PEOPLE CENTER**

SECTION I PURPOSE OF THE POLICY

To establish procedure for administering a request for Military Leave. The policy also outlines certain rights, responsibilities and benefits pertaining to and available to employees called to military duty, especially pertaining to re-employment.

SECTION II ELIGIBILITY PROVISION

This policy applies to all employees of Champlain College, Inc. who are voluntarily or involuntarily called to perform military service, including those activated as part of a Federal call up to assist in an emergency related natural disaster.

The policy is limited to individuals serving in the United States' uniformed services (including the National Guard and Reserves of the military services) as well as Intermittent Disaster Response Appointees (IDRAs).

This military leave policy does not apply to State call-ups to assist in an emergency related to a natural disaster (please refer to Leave of Absence Policy in these cases).

This policy may not address all issues concerning military leave rights. Insofar as issues arise that are not addressed in this policy, the College will abide by USERRA and any controlling state law.

SECTION III DEFINITIONS

USERRA: The Uniformed Services Employment and Reemployment Rights Act. USERRA applies to persons who perform duty, either voluntarily or involuntarily in the "uniformed services," including the Air Force, Army, Coast Guard, Marine Corps, National Guard, Navy, and Public Health Service commissioned corps, as well as the reserve components of each. Designed for individuals returning from service, the Act has certain eligibility criteria regarding regular employee providing notice, receiving an honorable discharge, and requesting reinstatement to a previous position. Similarly, restoration rights and time limits for returning to work are based upon the duration of military service. Employers are required to allow employees who serve up to 90 days to return to the same job and employees who serve more than that to return to the same or an "equivalent" position, or, based upon the "escalator" principle, to a position of seniority, pay and status comparable to that the employee would have enjoyed had they remained continuously at work for Champlain College. Employees retain seniority rights and are treated as if they had never left for the military leave of absence. This is done for the purpose of job reinstatement, leave entitlement, retirement accrual and vesting and FMLA qualifying service. (*Sources: The United States Department of Labor.*)



CHAMPLAIN COLLEGE

Uniformed Services: Individuals who serve in the Air Force, Army, Coast Guard, Marine Corps, Navy, National Guard, and Public Health Service commissioned corps, as well as the reserve components of each.

Intermittent Disaster Response Appointees (IDRAs): temporary, intermittent employees of the U.S. Department of Health and Human Services. They respond, often on very short notice, to emergencies involving infectious diseases or weapons of mass destruction, and they also engage in training for such dire contingencies.

SECTION IV POLICY

4.1 An employee of Champlain College who leaves their job for voluntary or involuntary service in the uniformed services or as an Intermittent Disaster Response Appointee will, upon giving reasonable notice, be granted an unpaid military leave of absence. Service in the uniformed service includes:

4.1.1 Initial active duty or active duty for training (basic or advanced individual training);

4.1.2 Inactive duty training (weekend "drills");

4.1.3 Annual training

4.1.4 Extended Active Duty (activation for local, regional or international military service in support of a national effort (e.g., Operation Enduring Freedom) (may or may not include overseas deployment but may be in preparation for such activities)

4.1.5 Full-time National Guard duty; or

4.1.6 Physical examination leave when an employee is absent from their position for the purpose of an examination to determine the fitness of the person to perform any military duty.

4.2 Notice Period

Unless precluded by military necessity or circumstances under which the giving of notice is otherwise impracticable or unreasonable, the employee (or an appropriate officer of the uniformed service in which the employee is to serve) must give advance written or verbal notice as soon as possible of the need for military leave. It is the employee's responsibility to submit a copy of their military order prior to their leave and, if extended, submit a copy of their extended orders in a timely manner to ensure their position at the College.

4.3 Pay for Leave

Any regular full-time employee who is required to participate in four weeks; (twenty working days) or less of short-time military duty will be paid the difference between base military pay received and their current base salary at the College. During this timeframe, the employee or their legal representative must supply either: a copy of orders, a military pay voucher or other acceptable written proof necessary to establish the amount of military pay in order for the pay differential to be calculated. Most regular deductions will be made from the College-provided pay (Federal, State and Local Taxes, FICA, Deductions for Garnishments and Tax Levies,



CHAMPLAIN COLLEGE

benefits premiums, etc.)

An employee may substitute their vacation time for the pay differential. For longer leaves of absence, employees may use accrued vacation time or take leave without pay, subject to the rights established by state and federal law.

4.4 Benefits

4.4.1. Medical/Dental/Vision

If an employee is on active duty for fewer than 31 days, the College will continue medical, dental and vision coverage as if they had not taken leave (per plan coverage). For those on active duty for 31 or more days, TriCare will cover employee and family. TriCare is the federal health program for military personnel and their dependents.

Employees may elect to continue employer-sponsored healthcare for themselves and covered dependents up to 24 months while in the military by means of COBRA for up to 24 months. In this case, according to Champlain College's understanding of TriCare's coordination of benefit rules, TriCare will be a secondary payer to Champlain College coverage. The employee is responsible for contacting the providers to determine coverage restrictions or exclusions as a result of military service.

Even if the employee does not elect to continue coverage during military service, the employee has the right to be reinstated in the College's health plan upon reemployment, generally without any waiting period or exclusions (e.g. pre-existing conditions) except for service-connected illness or injuries per plan specifications.

4.4.2. Flexible Reimbursement Accounts

If an employee is participating in the Medical Expense or Dependent Care Flexible Reimbursement plan, they may continue participation if active duty is for fewer than 31 days. For those on active duty for 31 or more days, participation in the plan will be terminated, and the employee can choose to continue to participate in this coverage through COBRA.

4.4.3. 403(b) Retirement Plan

The returning veteran who meets the USERRA eligibility criteria will be given the opportunity to make up missed employee contributions to the defined contribution plan. Such make-up contributions must be made within the period that begins on the date of reemployment and extends for three times the period of service, but not more than five years. All such make-up payments shall be made on a pre-tax basis. The employee will be given the opportunity to set aside up to 10% of her imputed income, during the period of service, even if they were not putting money in the defined contribution plan before the period of service. When they make those contributions, after returning from service, the College will match contributions according to the defined contribution plan(s) in place during the time of the employee's military leave.

Employer and employee contributions to the defined contribution plan account will be based on what the employee would have earned from the College during the military-related absence. The determination will be based on the pre-service rate of compensation, plus any pay raises or promotions that are based on seniority or cost-of-living that the employee would have received during the military-related absence.



CHAMPLAIN COLLEGE

4.4.4. Vacation and Holidays

Subject to a maximum number of vacation days or hours that an employee can accrue and carry over from year to year, the employee will continue to accrue vacation time during for the first 60 months of military leave. In addition, if vacation accrual rate would have increased at any time during employee's active military service leave, the increased accrual rate will take effect during the applicable military service period. Company observed holidays are part of regular pay. Employees will not receive additional holiday pay.

4.4.5. Other Benefits

There are no disability or life insurance benefits during periods of military service. As a result, Short/Long Term Disability coverage and life insurance benefits will end as of employee's last day of active employment. Upon reemployment, disability and life insurance coverages that were in effect prior to the military leave will resume. Should employee suffer a disability while on active military duty, they will be entitled to benefits through the federal government.

Dependents of employees who are eligible or become eligible for tuition remission benefits and course fee waiver benefits will retain this eligibility during the time the employee is on military leave.

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 position.

4.5 Reinstatement

An employee who leaves Champlain College employment for service in the uniformed services will be entitled to reemployment, provided they meets the USERRA eligibility criteria:

- a. The employee (or an appropriate officer of the uniformed service) must have given the College prior oral or written notice of the impending service.
- b. The employee's cumulative period or periods of service in the uniformed services, while related to Champlain College, shall not have exceeded five years, less any allowable excluded duty periods.
- c. The employee must have completed the period of service without having received a punitive or other than honorable discharge or having been dismissed or dropped from the rolls of the uniformed service.
- d. The employee must have made a timely application for reemployment or have been timely in reporting back to work as stated below:
 - o **1-30 Days** of Service, Employee must report to work on the next regular full work day after safe transport back to employee's home, plus 8 hours of rest;
 - o **31 – 180 Days** of service, Employee must notify their supervisor of their intent to return to work within 14 days after the completion of service; or



CHAMPLAIN COLLEGE

- **181 + Days** of service, Employee must notify their supervisor of their intent to return to work within 90 days after the completion of service.

If the employee's period of service was less than 91 days, they are entitled, upon reemployment, to the exact job that they would have attained if he or she had been continuously employed. In most cases, that will be the same as the pre-service job.

If the period of service was 91 days or more, our College has the option to reemploy the returning veteran either in the position that they would have attained or, alternatively, in another position of like seniority, status, and rate of pay. Offering the returning veteran reemployment in a position that is not of like status is not a sufficient compliance with USERRA.

4.5.1 Training or Retraining

If an employee returns to work after a long period of military service, they may find that many things have changed in the interim, to include technological developments and changes in the ways of doing business. The returning veteran is entitled to the training or retraining that he or she would have received if continuously employed.

4.5.2 Special Protection Against Discharge (Except for Cause)

The returning veteran who meets the USERRA eligibility criteria may not be discharged, except for cause, within one year after reemployment, if the veteran's period of service was 181 days or more. If the period of service was 31-180 days, the period of special protection is 180 days. If the employee is discharged during the special protection period, Champlain College must show that the employee was discharged for cause.

4.5.3 Entitlements of Returning Disabled Veterans

If a disability is incurred or is aggravated during military service, Champlain College will make every reasonable effort to accommodate the disability in the position employee would have held had employment not been interrupted by military leave. If, despite such accommodation, employee is still not able to perform the duties of the position, they will be placed in a position that is equivalent in seniority, status and pay. If employee is not qualified for and could not, despite reasonable efforts, become qualified for an equivalent position, they will be placed in a position that most nearly approximates that of the former position in seniority, status and pay.

SECTION V POLICY ADHERENCE

The Vice President, People and Technology is the responsible official for this policy. Any exceptions to this policy must be approved by the Vice President, People and Technology

SECTION VI CONTACT



CHAMPLAIN COLLEGE

Questions related to the interpretation of this policy should be directed to the Vice President, People and Technology.

The People Center policies and procedures are updated on an as-needed basis. As such, the College reserves the right to alter, amend or suspend the terms of this policy at its sole discretion; please refer to the policies posted on the People Center website for the most current version. This policy does not constitute an employment contract.

