



Leave Policy – Military Leave

Responsible Official: Chief Operating Officer

Responsible Office: Human Resources

Policy Purpose

This policy specifies and affirms ETSU’s commitment to complying with federal and state law related to military leave.

Policy Statement

ETSU values the commitment and sacrifice of service men and women. Service men and women who are members of any reserve component of the armed forces of the United States or of the Tennessee National Guard or the U.S. Air Force Auxiliary Civil Air Patrol shall be entitled to a leave of absence from their duties for all periods of military service during which they are engaged in the performance of duty or training in the service of this State, or of the United States, under competent orders as stipulated in U.S.C. Title 38, § 4311-4318 and T.C.A. § 8-33-101 through 8-33-109, T.C.A. § 58-1-106 and T.C.A. § 42-7-102.

ETSU will follow the requirements of the Uniform Services Employment and Reemployment Rights Act (USERRA) and the State of Tennessee’s Uniformed Services Employment and Reemployment Act with regard to the employment of military personnel that need to take leave for Military Duty and to reemployment of military personnel. The Office for Human Resources will assist employees who are eligible for military leave or reemployment after Military Duty based on that employee’s individual circumstances.

I. Determination of Status.

Regular Employees whose service or status qualifies under the USERRA shall be entitled to a leave of absence from their duties for qualifying military services that meet the requirements of the USERRA. For more information on the requirements of USERRA, please visit:
<https://www.dol.gov/agencies/vets/programs/userra> .

II. Employee Responsibility.

A Regular Employee who must leave for Military Duty will give their direct supervisor and the Office

of Human Resources notice of leave as soon as practically possible unless giving such notice is prevented by military necessity. The employee will work directly with the Office of Human Resources regarding all required paperwork.

III. Pay during Military Leave.

A. Military Leave with Pay.

Any employee who is on military leave shall be paid salary or compensation for a period, or periods, not exceeding twenty (20) working days in any one (1) calendar year. Holidays and scheduled off duty days do not count toward the twenty (20) workdays allowed. During the 20-day period the employee continues to earn regular pay, service credit, and applicable annual and/or sick leave accruals. All other rights and benefits continue to which the employee is otherwise entitled. A Regular Employee who has exhausted the 20 days of paid leave in any one calendar year may elect to use accrued annual leave. In addition, a Regular Employee may use accrued sick leave if the employee provides evidence to the Office of Human Resources that the employee was sick while serving in the armed forces. An employee on terminal leave is entitled to use the twenty (20) days of paid military leave with no loss of rights or benefits to which the employee is otherwise entitled. Employees must furnish certification from competent military authority of the dates active duty was actually performed. Longevity credit will not be affected. Employees are entitled to additional paid leave if called to active duty pursuant to T.C.A. § 58-1-106.

B. Military Leave with Partial Pay.

Military Leave with Partial Pay shall be granted to any employee who is called to active duty by the President of the United States or under the authority of a Governor as members of the Reserve or National Guard as provided by applicable Tennessee Executive Orders. Partial pay shall be the difference between the employee's regular state salary and the employee's full-time military salary. Affected employees shall remain state employees while on such active duty for the purpose of (a) accruing sick leave, (b) accruing annual leave, (c) accruing longevity pay which shall continue to be paid to the employee annually, and (d) accruing retirement time. Earnable compensation and retirement benefits shall not be increased or decreased by any partial payment made pursuant to this section. The period of absence while on Military Duty shall count toward the minimum twelve (12) months and 1,250 hours required that an employee work for eligibility for leave under the Family Medical Leave Act.

C. Military Leave without Pay.

Military leave without pay shall be granted to all employees for periods of active duty or training activity with the armed forces of the United States, its reserve components, or the Tennessee National Guard for periods beyond the twenty (20) days of paid leave in a calendar year. Military leave without pay shall be granted to employees voluntarily entering the regular components of the Armed Forces of the United States. During a period of unpaid military leave,

a regular employee retains all accumulated annual and/or sick leave. Longevity credit will not be affected.

IV. Benefits.

Upon returning from Military Duty, a Regular Employee is entitled to the same rights and benefits as if employment had been continuous subject to the requirements of state law and state insurance plans will be determined by the State Division of Insurance Administration.

A. Retirement.

For retirement purposes, a returning employee is considered as not having incurred a break in service.

1. Following the employee's return to university employment, the university must make the retirement plan contributions which would have been made in the absence of a break in service not to exceed five years.
2. Employer and employee contributions are based on the rate of pay the employee would have received had he remained continuously employed.

B. Longevity.

The returning employee will be credited the time away for service towards their longevity as if the employee had continuous employment.

C. Leave.

Upon return to employment with ETSU, the employee will accrue leave at the appropriate rate and as if the employee had continuous employment.

Authority: Focus Act § 49-8-203, et seq.; U.S.C. Title 38, § 4311-4318; Uniform Services Employment and Reemployment Rights Act T.C.A. § 8-33, et. seq.; T.C.A. § 58-1-106; T.C.A. § 42-7-102; Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 20 C.F.R. 1102.115; Current Executive Orders 4, 9, 12, 17, 20, 26 and 40 relating to Military Leave with Partial Pay can be found at: www.state.tn.us/sos/pub/execorders/index.

Previous Policy: PPP-23 Military Leave

Defined Terms

A defined term has a special meaning within the context of this policy.

Military Duty	(1) Training and service performed by an inductee, enlistee, or reservist or any entrant into a temporary component of the armed forces of the United States, (2) time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting for such training and service, and (3) active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only.
Regular Employees	Regular employees are personnel whose salary and benefits are budgeted on a recurring basis whether through grant or state funds, who are employed on a continuing basis, and who are eligible for full benefits (pro-rated based on percentage of effort). The Employee Classification policy provides information on types of Regular Employees.

Policy History

Effective Date: 06/17/24

Revision Date:

Procedure

Procedure History

Effective Date:

Revision Date:

Related Form(s)

Scope and Applicability

Primary: Human Resources

Secondary: