

**POLICY: 6Hx28: 3D-10**



**Responsible Official:** Uniform Services Agreement and Reemployment Rights Act of 1994 (USERRA)

**Policy Contacts:** Director, HR Policy and Compliance Programs

**Specific Authority:** 1001.64, F.S.

**Law Implemented:** 1001.64, F.S.

**Effective Date:** 04-16-2013

**Date of Last Policy Review:** 01-22-2019

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## **Military Leave**

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### **Policy Statement:**

- I. Valencia College will comply with applicable federal and state laws pertaining to military leave. As a result, Valencia College employees who perform service in the uniformed services are entitled to a military leave of absence. The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from a position of employment for the purpose of performing funeral honors duty. The uniformed services are the Army, Navy, Marine Corps, Air Force, Coast Guard, and the commissioned corps of the Public Health Service. This includes the Reserve components of these services and the Army National Guard and Air National Guard. Upon receiving an assignment for military service, employees should promptly provide notice to their supervisors prior to going on military duty, unless precluded by military necessity.
  
- II. For those employees reporting for Federal active or inactive duty training due to membership in military reserves, including the National Guard, the first seventeen (17) working days of such leave shall be with pay. For those employees reporting for state active duty due to membership in the Florida National Guard, such leave not exceeding seventeen (17) working days per fiscal year, shall be with pay. All employees will have the choice of being placed on unpaid military

leave status for all remaining days that they are engaged in such military service or they may elect to use accrued vacation and personal leave or earned comp time at their discretion.

- III. An employee who notifies Valencia College that he or she will be away from work performing service is entitled to elect continued health insurance coverage through Valencia College, during the military-related absence from work. If the period of service (as called for in the individual's military orders) is for less than 30 days, Valencia College will at a minimum maintain health benefits and other benefits for the first thirty (30) days of military leave as if the employee was actively employed. If the period of service is greater than 30 days and the employee is on unpaid military leave, Valencia College may charge up to 102% of the entire premium, including the part that the employer normally pays in the case of active employees. Valencia College is required to make this continuing coverage available to the employee who is away from work for service until the first of the following occurs:
- A. The employee returns to work after service
  - B. The employee allows the deadline for an application for reemployment to pass without having made such an application
  - C. Eighteen (18) months have passed since the employee left his or her civilian job for service.
- IV. Valencia College is committed to reinstating returning employees to active status in the same or comparable position, pay grade, and salary at the end of the leave if they meet the following criteria:
- A. The employee had been employed in a regular staff position and would not have been subject to position discontinuation if employment had not been interrupted by military service.
  - B. The employee gave notice to Valencia College prior to leaving, unless precluded by military necessity or to do so would have been impracticable or impossible.
  - C. The cumulative period of service did not exceed five (5) years, excluding certain services required by, among other things, a declared war or national emergency.
  - D. The employee was not discharged from the military under other than honorable terms. Valencia College may request that the employee present a certificate of discharge or release from active duty under honorable conditions (DD-214).<sup>5</sup> The employee reported back to Valencia College in a timely manner.
    - 1. After a period of less than 31 days of service, the employee is required to report for work at the start of the first full regularly scheduled work period on the first day after the completion of the period of service, the time reasonably required for safe transportation from the place of service to the individual's residence, and a period of eight hours (for rest). If reporting that next day is impossible or unreasonable because of factors beyond the individual's control (like an accident on the return trip), the individual is required to report for work as soon as

reasonably possible thereafter. The employee will be considered to be back on the payroll as of the time the employee reports for work.

2. If the period of service is greater than 30 days, but less than 181 days, the individual is required to submit an application for reemployment within 14 days of release from service.
  3. If the period of service is 181 days or more, the individual must submit an application for reemployment within 90 days of release from service. The deadline for reinstatement may be extended up to two (2) years for employees who are disabled or convalescing due to an injury incurred or aggravated as a result of military duty.
  4. No particular form is required for the application for reemployment. If the former employee attempts to communicate with Valencia College, within the 14 days or 90 days respectively, and informs Valencia College that he or she is available to return to work after service, Valencia College will offer reemployment to the individual. If the former employee submits a timely application and meets the other eligibility criteria, Valencia College will act promptly on that application. Valencia College will not require the returning service member to wait for a vacancy, and if training or retraining is needed to meet the minimal standards associated with this reemployment, Valencia College will offer it to the employee "on the clock". Reemployment will be offered to the individual not later than the start of the second two-week pay period after the pay period when the individual submits the application for reemployment.
  5. If the individual misses the relevant deadline for submitting an application for reemployment, the former employee may still be entitled to reemployment, but is subject to Valencia's policy regarding explanations or sanctions for absence from scheduled work. In this case, the final reemployment decision rests with the Vice President of Human Resources or his/her designee.
- E. Circumstances have not so changed as to make such reemployment impossible or unreasonable and do not impose an undue hardship on Valencia College.
- F. In most situations, the reemployment position will reflect the status and other benefits that the employee would have achieved had the employment not been interrupted by service including seniority, pay increases, and benefit increases based on length of employment.
- G. Valencia College may hire a replacement while an employee is on military leave. The temporary employee is a term appointment and the offer letter from the hiring chair person must clearly state the term of the appointment. The replacement worker may be eligible for benefits depending on the type and length of the assignment. However, in no case, will a replacement employee be eligible for benefits provided under the Reductions in Force policy. The offer letter must clearly state the terms and conditions of employment and that the position will end upon the return of the employee on leave.

Upon return of the employee from military leave, the temporary worker's employment with the College will end.

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**Policy**

**History:**

Adopted 1-19-83; Amended 4-18-91; Amended 11-18-92; Amended 4-16-13; Formerly 6Hx28:07-20

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**Procedure**

**Statement:**

An employee will initiate a request for military leave by completing a Certificate of Absence form and attaching a copy of orders. The president or a designee is authorized to approve short-term military training.

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**Procedure**

**History:**

Adopted 1-19-83; Amended 4-18-91; Amended 11-18-92; formerly 6Hx28:07-20

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**Date of Last Procedure Review:** 01-22-2019