

CALIFORNIA INSTITUTE OF TECHNOLOGY
STAFF PERSONNEL MEMORANDA

Subject: Military Leaves	Memo No. 15-7 Pages: 6 Date: July 24, 2012
Approved by: Julia M. McCallin, Associate Vice President for Human Resources	

(This supersedes Memo No. 15-7, dated February 26, 2008)

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 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).

The Institute will reinstate employees who return from military service in compliance with USERRA and other applicable laws and regulations.

3.0 Types of Leave

3.1 Military Training Leave

Eligibility

Employees, other than those classified as occasional, who are members of the U.S. uniformed services including the armed forces reserves, the California or U.S. National Guard, the Coast Guard, Corps of the Public Health Service, and other persons designated by law, are eligible to take time off to participate in military training.

Amount and Type of Payment

Eligible employees will be paid the difference between their military pay and regular base wage or salary, plus any applicable shift premium or special pay allowances, for up to ten (10) workdays in each calendar year. Employees who are on leave for military training in excess of ten (10) 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 Human Resources that a leave is required before leaving for military training unless it would be impossible, unreasonable or precluded by military necessity.

Employees must provide a copy of their official orders or other available written documentation to Human Resources.

Leaves of absence of ten (10) or more consecutive workdays require the submittal of a Leave of Absence Request Form. Employees should obtain their supervisor's signature on the Leave of Absence Request Form prior to forwarding it to Human Resources.

Pay Reconciliation Process

An offset due to receipt of military pay will be exclusive of any allowance for quarters, subsistence, travel and/or per diem. Upon returning to work from Military Training Leave, an employee must provide a receipt for military training pay, which will be deducted from her/his regular pay in a subsequent pay period. Employees who do not present an itemized military training pay receipt within thirty days after returning from Military Training Leave may be required to reimburse the Institute for any Military Training Leave payments that have been made under this policy.

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 required by law.

3.2 Active Duty Military Leave

Eligibility

Employees, other than those classified as occasional, who are called to active military duty in state or federal service are eligible for Active Duty Military Leave.

Maximum Length of Military Leave

Employees called to active duty will be permitted a cumulative total of five (5) years of leave for such service.

Amount and Type of Payment

Eligible employees may be paid the difference between their military pay and 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 Duty Military Leave of Absence without pay.

Employee's Responsibilities

Employees are responsible for notifying their supervisor and Human Resources that a leave is required before leaving for active duty unless it would be impossible, unreasonable or precluded by military necessity.

Employees must provide a Leave of Absence Request Form when requesting a leave of ten (10) or more workdays and provide a copy of their official orders or other available written documentation. Employees should obtain their supervisor's signature on the Leave of Absence Request Form prior to forwarding it to Human Resources.

Pay Reconciliation Process

In the event that pay is not appropriately paid or withheld before or during any military leave period, reconciliation may be necessary to comply with the pay differential described above. An offset due to receipt of military pay will be exclusive of any allowance for quarters, subsistence, travel and/or per diem. Upon returning to work, the employee must provide a receipt for military pay. Employees who do not present an itemized military pay receipt within thirty days after returning from active duty may be required to reimburse the Institute for any payments that have been made under this policy. Pay and benefit reconciliation shall be made in a subsequent pay period.

Reinstatement Following Active Duty Military Leave

Employees returning from Active Duty Military Leave will be reinstated to the position they held prior to the leave or as required by law and if the following requirements are met:

- The employee must have held a full-time or part-time position at the commencement of military service
- The employee informed Human Resources that he/she was called to military service as provided in this policy
- 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 notifies Human Resources in a timely manner of his/her desire to return to work

Please refer to the chart below for additional detail regarding reinstatement rules. Employees who do not notify the Human Resources of their intent to return to work within the time specified below may be considered to have abandoned their position and to have voluntarily resigned.

Length of Military Duty Leave	Time to Apply for Reemployment
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.

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 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. 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 s/he is 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 Benefits Handbook 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 or designee for Campus staff, or of the Director for Human Resources at JPL or designee for JPL staff.

7.0 Related Policies

[Employee Medical and Family Care Leaves](#)

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