

## LINCOLN UNIVERSITY

<b>Policy:</b>	<b>Military Leave</b>
<b>Policy Number:</b>	<b>HRM – 126</b>
<b>Effective Date:</b>	<b>April 2021</b>
<b>Revisions:</b>	<b>New Policy</b>
<b>Next Review Date:</b>	<b>August 2022</b>
<b>Review Officer:</b>	<b>Vice President for Human Resources</b>
<b>Status:</b>	<b>Approved by the President and Board of Trustees</b>

Lincoln University regular full-time faculty and staff who may be called or volunteer to serve on active military duty, are eligible based on their orders to up to 30 calendar days of military leave with pay per fiscal year.

The University grants up to five (5) cumulative years of time off without pay for faculty and staff members (including staff covered by collective bargaining agreements\*) who are called to or volunteer for active military duty in accordance with Federal guidelines. The employee's University department is committed to returning the faculty or staff member to active University status in the same or comparable job profile, grade profile and compensation within the department at the end of the military leave, if the employee meets certain conditions as outlined in the University's Military Leave Policy.

\*University faculty and staff members who are covered by collective bargaining agreements should refer to the appropriate contract article for leaves without pay.

### **PURPOSE OF POLICY**

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects job rights and benefits for veterans and members of the reserves. (For a copy of USERRA, see <https://www.justice.gov/crt-military/userra-statute>). USERRA, and various state laws, apply to all employers doing business in this country regardless of size. The law protects all persons serving in the Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service commissioned corps, Reserves, and those servicing in the Army or Air National Guard.

Offers of employment may not be rescinded because of military obligation if the appointment has already been offered and accepted.

### **TIME OFF WITH PAY FOR ANNUAL MILITARY RESERVE DUTY**

#### **A. DESCRIPTION**

All regular full-time faculty and staff (hereinafter "Employee") who are members of the National Guard or a reserve component of the United States Armed Forces, including the Coast Guard and Public Health Service Commission Corps, will be granted time off with pay for annual military reserve duty provided the duty is obligatory to maintain military status.

The maximum paid military leave time off (MTO) allowed for required annual training (AT) is 15 work days per fiscal year (July 1 to June 30). Any period of time spent on required AT in excess of the maximum paid time allowed may be taken as paid time off (PTO) or a leave without pay.

#### B. NOTICE

Notice (which may be verbal or written) of time off for annual military reserve duty should be made to the Employee's immediate supervisor or department head at least two (2) weeks in advance of the duty, when it is feasible to do so, or as soon as possible under the circumstances if it is not feasible to provide two (2) weeks advance notice. The request should include the dates of departure and return. A copy of the official orders may be included with this advance notice, though it is not required. The Employee will be asked to provide a copy of official documentation for leaves exceeding thirty (30) days in duration-if and when the Employee seeks reemployment after such military leave. Contact the Office of Human Resources (484-365-8059) for questions about military reserve duty.

#### **RECEIVING COMPENSATION FOR MILITARY RESERVE DUTY**

During annual military reserve duty, if military pay is less than the University's pay, the University will pay the difference for the maximum paid time allowed for annual reserve duty (15 work days) between the University base pay and the military pay (not including any military allowances or reimbursements for expenses such as, but not limited to, housing, travel, or uniform/clothing allowances).

To receive pay from the University during the 15 days of annual military reserve duty, the Employee must furnish a certified statement of the military pay for the time off to the Office of Human Resources.

After the annual maximum paid time of 15 days for military reserve duty is exhausted, employees may choose to either use accrued but unused PTO during military reserve duty, or they may elect to take an unpaid leave of absence during the period of military reserve duty.

#### **TIME OFF WITH PAY FOR ACTIVE MILITARY DUTY**

##### A. DESCRIPTION

Leave will be granted for voluntary or involuntary service in the uniformed services, provided the cumulative length of the absence from work and all previous absences from work by reason of service in the uniformed services from the University does not exceed five (5) years, unless an additional period of service is required by the Federal or State government. The five-year cumulative total does not include inactive duty training (drills), annual training, involuntary recall or retention on voluntary or involuntary active duty in support of war, national emergency, or certain operational missions or training or retraining requirements.

Employees who are granted military leave for voluntary or involuntary active military duty or training in the uniformed services may receive up to 30 calendar days of paid leave per fiscal year (July 1 to June 30), unless they have already exhausted the maximum 30

calendar days in that fiscal year. After the maximum 30 calendar days of Lincoln's paid military leave is exhausted, the Employee may choose to either use paid time off (PTO) during the remainder of their military leave or elect to take an unpaid leave of absence.

### C. NOTICE

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 as much advance written or oral notice as possible of the need for military leave.

The Employee also requests a leave of absence in the Time and Attendance System, including the first day of leave, the estimated last day of leave and the leave type (military). Once the staff member submits the request into the Time and Attendance System, the request automatically routes the request to the manager for approval.

### D. REEMPLOYMENT

The University is committed to reinstating returning Employees to active status in the same or comparable job profile, grade profile, and compensation at the end of the leave if they meet the following criteria:

1. 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;
2. The Employee gave notice to the University prior to leaving, unless precluded by military necessity or to do so would have been impracticable or impossible;
3. The cumulative period of active service did not exceed five (5) years, excluding certain services required by, among other things, a declared war or national emergency;
4. The Employee was not discharged from the military under other than honorable terms;
5. The Employee reported back to the civilian job in a timely manner.
  - a. Following 1 to 30 days of service- employee must report back on the first regularly scheduled workday after their service is completed, allowing for safe transportation home and an additional eight-hour period.
  - b. Following 31 to 180 days of service – must submit written letter of intent to return to your previous position within 14 days of completion of service.
  - c. Following 181 days of service – must submit application within 30 days after completion of service.
  - d. 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; and
6. Circumstances have not so changed as to make such reemployment impossible or unreasonable and do not impose an undue hardship on the University.

The University may request that the Employee present a certificate of discharge or release from active duty under honorable conditions.

## E. REPLACEMENT HIRE FOR EMPLOYEE ON LEAVE

The University may hire a temporary replacement while an Employee is on military leave. The replacement is a term appointment and the offer letter from the hiring officer must clearly state the terms and conditions of employment and that the position will end on or before the return of the Employee on leave. The replacement worker may be eligible for benefits depending on the type and length of the assignment. Upon return of the Employee from military leave, the replacement worker's employment with the University will cease.

Special arrangements for faculty members are handled by the Office of the Provost and the Office of Faculty Affairs.

## BENEFITS

### A. Time Accrual

During the paid military leave period (up to 30 calendar days), the Employee will continue to accrue paid time off (PTO) and sick leave in accordance with the relevant University policies. During the leave without pay, there is no accrual of sick leave or paid time off (PTO). Time while on leave without pay is counted as service credit in determining eligibility for benefits that are dependent upon length of service (for example, PTO accrual rate), assuming the Employee timely returns to employment within the required period of time following the end of military leave.

### B. Health and Other Benefits

1. During the first thirty (30) days of military duty the Employee's medical, dental, and vision insurance will continue in effect on the same basis as an active employee.

Employees whose military duty continues after 30 calendar days may elect to continue employer-sponsored health care coverage for up to 24 months, or the period of military duty service (plus any additional period thereafter provided under USERRA or applicable state law to return to work or apply for reemployment), whichever is shorter. During this time, the Employee continues to pay the Employee's share of health care premium only. The Employee's current medical, dental and vision coverage will automatically continue during the unpaid leave unless the individual contacts Human Resources (484-365-8096) within 30 days of when the unpaid leave begins, to make any benefits changes. The Employee will be billed directly on a monthly basis for the benefits continued during the unpaid leave. Failure to pay will result in loss of benefits coverage. You should check with appropriate military personnel to determine what medical benefits, if any, are available to you and your dependents while you are on active duty. If an Employee does not choose continuation of coverage (i.e., waives coverage) during their unpaid leave of absence, benefits will be reinstated, effective the first of the month following their timely return to work.

If the Employee elects health care coverage with COBRA during the military duty leave, the Employee may be required to contribute up to 102 percent of the full premium.

2. Life Insurance During the first thirty (30) days of military duty the Employee's basic life, supplemental life and dependent life insurance will continue in effect on the same basis as an active employee.

3. Accidental Death and Dismemberment insurance is a supplemental part of the group life policy and is not continued or payable during military duty.

4. Pre-Tax Expense Accounts for Health Care and Dependent Care will be automatically discontinued as of the date that the unpaid leave begins. Employees participating in the pre-tax accounts may continue to submit claims against balances accumulated in their accounts through the duration of the Plan year and/or relevant filing period.

5. The Employee may continue to contribute on an after-tax basis to the Health Care Pre-Tax Expense Account at their current annual coverage level through the University's third-party administrator. To continue contributing, the staff member must contact Human Resources (484-365-8059) within 30 days of when unpaid leave begins.

Employees participating in the health care pre-tax flexible spending account who are on military leave for a period of more than 179 days (or an indefinite period) may be entitled to a distribution of some or all of the remaining amounts in their account. If the amounts distributed are not used for health care expenses, however, they are considered taxable income. Requests for distributions from health care pre-tax flexible spending accounts must be submitted in writing Human Resources before September 30 of the Plan year following the Plan year in which the leave begins. (For these purposes, the Plan year runs from July 1 through June 30.)

6. Tuition benefits for Employees and/or eligible dependents will be continued during the military leave.

### C. Retirement Benefits

1. Employees participating in the University's Basic and Matching Plans may make up for missed contributions from the leave period upon return to work. Employees should contact Human Resources at 484-365-8059 within 30 calendar days of their return to work for information on this process. University Basic Plan contributions will automatically be made to the Employee's plan account following their timely return to employment and timely notification Human Resources, but University Matching Plan contributions will not be made to the Employee's plan account until the Employee makes up their contributions as described in the next paragraph.

Missed Employee contributions must be made after reemployment and before the earlier of: 1) five years, or 2) three times the length of the period of military service. Certain contribution limits may apply. The missed contributions can be made on a pre-tax or after-tax basis. The requirements for making missed contributions are in accordance with controlling law. Employees will be advised of their rights and obligations upon their reemployment.

Employees who are on military leave for longer than 30 days and have outstanding retirement plan loans from the Retirement Annuity (RA) Plan, if permitted under the applicable plan, may request a suspension of loan payments while on military leave. If the loan payments are suspended, interest on the unpaid loan balance would continue to

accrue at a rate of not more than 6% during the length of the military leave (assuming the employee provides to Human Resources written notice of his or her military leave, along with a copy of his or her military orders, within 180 days of termination or release from military service). Upon the Employee's return from active duty, the interest rate will revert back to the original rate and the Employee must resume loan payments to the Plan. The amount of the loan payments will be recalculated to include the interest that accrued during the military leave. The period for paying off the outstanding balance of the loan (plus the accrued interest) will be extended by the period of the Employee's military leave. To request a suspension of payments or to get more information regarding loan repayments, Employees should contact TIAA at 866-842-2173.

## OTHER

Many issues may arise concerning your rights during military leave. This policy does not, and cannot, address all such issues. If issues arise that are not addressed in this policy, the University will abide by USERRA and any controlling State laws. In the event of any inconsistencies between this Policy and USERRA and applicable state laws, the requirements of applicable law shall be followed by the University. Should you have any questions or require further information, please consult the Office of Human Resources at 484-365-8059.

## UNIVERSITY STAFF WHO ARE COVERED BY COLLECTIVE BARGAINING AGREEMENTS

University faculty and staff members who are covered by collective bargaining agreements should refer to the appropriate contract article.

Questions regarding this Policy may be addressed to:

Lincoln University  
Office of Human Resources  
1570 Baltimore Pike  
Lincoln University, PA 19352  
484-365-8059

*At its discretion, Lincoln University reserves the right to change, alter, cancel, or eliminate policies, guidelines, or procedures at any time.*