



### **Military Leave Policy (USERRA)**

Virginia Wesleyan College recognizes the need to have a policy that addresses the employment and re-employment rights of full- and part-time employees who serve in the military. It is the policy of Virginia Wesleyan College to comply with the Uniformed Services Employment and Reemployment Act of 1994 (USERRA) (as revised) and applicable state laws which protect job rights and benefits for veterans and members of the reserves. The laws cover all persons serving in the Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service commissioned corps, and the reserve components of these services and the National Guard.

USERRA gives protection to those individuals who are absent from work for active duty, active duty for training, initial active duty for training (such as drills), funeral honors duty, inactive duty training, full-time National Guard duty (under federal, not state direction), and 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. In addition, also protected are those in service in the commissioned corps of the Public Health Service, those attending a military service academy, and those participating in a ROTC active or inactive duty training program. Covered service also includes an employees service as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (NDMS) or as a participant in an authorized NDMS training program. Finally, in times of war or national emergency, the president has the authority to designate any category of persons called into the country's service at such times as a service member covered by USERRA'S rights and protections.

#### **Notice Period**

Unless precluded by military necessity or circumstances under which the giving of notice is otherwise impracticable or unreasonable, the employee (or 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.

#### **Inactive Duty**

If an employee is a member of one of the Reserve Units noted above, and is required to attend training or annual two-week encampment, or any other type of military exercise, the employee may elect to take PAL, if sufficient earned days of PAL are available, or to take a military leave of absence.

#### **Active Duty**

If an employee is absent from work due to active military service, Virginia Wesleyan College will grant the employee a leave of absence for the duration of such period of service up to the maximum required by USERRA.

#### **Employment and Pay**

If military leave of absence is elected under either an Inactive or Active Duty assignment, "makeup pay" for a period of 10 work days or 14 calendar days (whichever is greater) in

a 12 month period will be granted. The “makeup pay” will be the difference between the normal base salary/wage for the period of time lost and the military pay (exclusive of travel and similar allowances) earned while at the encampment or training. To receive “makeup pay” each employee will be responsible for furnishing proof of participation in military training and a statement of government pay received. Employees may elect to use paid leave time (PAL) in lieu of military leave or a combination of paid leave and military leave.

**Reemployment**

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, revised, an employee is entitled to reemployment by Virginia Wesleyan College upon separation from the military service, provided the employee:

- Was honorably discharged or terminated from service;
- Was employed in a position for which there was an expectation of continued employment;
- Has not been absent for duty in the Uniformed Services for longer than a cumulative period of five years unless involuntarily retained in the Uniformed Service;
- Reported to work or notified his or her supervisor of an intention to return to work, at the proper time, as indicated in the following table:
- In all cases, an employee will be reinstated in accordance with federal and state law.

<b>Period of Service</b>	<b>Action Employee Must Take</b>	<b>When Action Must Be Taken From Completion of Service</b>
1 – 30 days	Report to work	(1) On the next regularly scheduled work shift on the first full calendar day after service ended, plus the time for safe transportation back to his/her residence and eight hours of rest – OR – (2) as soon as possible after the eight hour rest period, if, through no fault of the employee, it would be impossible or unreasonable to report within the time described in (1)
31 – 180 days	Notify his or her supervisor in writing of the employee’s intent to return to work	Within 14 calendar days *
181+ days	Submit a written request for reemployment	Within 90 calendar days after completing service.

\* If complying with this deadline is impossible or unreasonable through no fault of the employee, on the next first full calendar day when submitting the request becomes possible.

An eligible employee will be reinstated to his or her former position or a comparable position.

## **Benefit Continuation and Reinstatement**

The following benefit policies pertain to periods of military service qualifying under the Uniformed Services Employment and Reemployment Rights Act (USERRA):

- A. **Healthcare:** The College provides employees with limited health coverage during military leave. For an employee on active duty for fewer than 31 days, the College provides healthcare coverage as if he or she had not taken leave. Those on active duty for 31 or more days may elect to continue employer-sponsored healthcare for up to 24 months. As with other extended leaves, the College may require employees electing such coverage to pay up to 102% of the full premium.
- B. **403(b) Plan:** Employees participating in the Virginia Wesleyan TIAA-CREF Plan may make up any contributions missed due to being on leave when they return to work. Although the requirements for making retroactive contributions are complex under the controlling law, and we will advise you of your specific rights and obligations upon your reemployment, you should understand that returning employees may take up to three times the length of military service, to a maximum of five years, to make up contributions which were not made during military leave. Moreover, makeup contributions are not subject to the annual limitations on plan contributions.
- C. **PAL:** Employees will not accrue PAL when they are on Military Leave Without Pay for more than 14 consecutive calendar days.
- D. **Seniority:** Upon returning to VWC employment, an employee is entitled to the Seniority he or she had when military leave started, together with the rights and benefits tied to that Seniority, plus any rights and benefits he or she would have had if Military Service had not interrupted employment. For example, if during Military Service his or her PAL accrual rate would have increased due to seniority, the employee would accrue at the higher accrual rate upon returning to work from Military Leave.
- E. **Other Benefits:** The coverage provided by insurance such as group life insurance and long term disability insurance will be reinstated, with no waiting period, when the employee returns to active employment with the College.

Dependents of employees who are eligible or become eligible for tuition remission, benefits will retain this eligibility during the time the employee is on military leave. Dependents of employees who are eligible for tuition assistance or exchange will be eligible for this benefit, with no waiting period, when the employee returns to active employment with the College.

This policy may not address all issues concerning your rights during military leave. Insofar as issues arise that are not addressed in this policy, the College will abide by USERRA and any controlling state laws. Should you have any questions or require further information, please see the Director of Human Resources for further information regarding military leave.