

Bergen Community College
Board of Trustees
Section: (HR)

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Responsible Official:
Vice President of Human
Resources and Organizational
Development

Military Leave of Absence Policy (Employees Only)

Policy Statement: Bergen Community College is committed to protecting the job rights of employees who are absent on military leave. In compliance with federal and state laws, no employee or prospective employee will face discrimination based on membership in or obligations to perform service for any uniformed service of the United States. This includes protections against adverse actions, such as denial of employment, promotion, or other employment benefits, as well as retaliation for exercising their rights under this policy or applicable law.

If an employee believes they have been subjected to discrimination in violation of this policy, they should immediately contact the Human Resources Department.

Reason for Policy: This policy ensures compliance with federal and state regulations governing military leave, safeguarding employee rights and fostering an inclusive, supportive workplace environment.

Who Should Read This Policy:

- Employees eligible for or engaged in military service.
- Supervisors and managers responsible for handling leave requests.
- Human Resource Department personnel managing leave and reemployment processes.

Definitions:

- **Extended Military Leave:** Absences exceeding 31 days for military service.
- **Military Leave:** Leave taken for military duties such as training, active service, funeral honors duty, federally authorized National Guard duty, or examinations to determine fitness for service.
- **Uniformed Services:** Includes active and reserve components of the Armed Forces, National Guard, National Disaster Medical System (“NDMS”), the Commissioned Corps

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of the Public Health Service (“PHS”), Federal Emergency Management Agency (“FEMA”) reservists, and other uniformed services.

- Organized Militia: Members of the New Jersey National Guard or other state’s Guard.
- **Uniform Services Employment and Reemployment Rights Act (“USERRA”)**: is a federal law passed in 1994 that protects the civilian employment rights and benefits of service members (active and reservists) and veterans. The USERRA:
 - Prohibits employment discrimination based on military service
 - Ensures that service members are promptly reemployed in their civilian jobs after returning from duty.
 - Requires that returning service members are reemployed in the same (or similar) position with the same seniority, status and pay.
 - Mandates that reasonable efforts (e.g., training or retaining) be made to allow returning service members to refresh or upgrade their skills to help them qualify for reemployment or provide for alternative reemployment positions.
 - Protects health insurance coverage for service members and their dependents.

The Policy: Bergen Community College provides leave of absence and reemployment rights to employees fulfilling military duties, as outlined by the Uniformed Services Employment and Reemployment Rights Act (“USERRA”) and relevant state laws.

Key Provisions:

1. No discrimination or retaliation against employees due to military service.
2. Reemployment in positions reflecting seniority, status, and pay, based on the duration of military service and qualifications.
3. Maintenance of benefits as prescribed under the law.

Procedure:

Eligibility

Employees taking part in a variety of military duties are covered under this policy. Such military duties include leaves of absence taken by members of the uniformed services, including active duty, reserve, or National Guard, for training, periods of active military service and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. This policy also covers individuals serving in the active components of the armed forces and the National Disaster Medical System (“NDMS”) as well as reservists for the Federal Emergency Management Agency (“FEMA”) when they are deployed to disasters and emergencies on behalf of FEMA, and other uniformed services. Covered employees are eligible for a cumulative total of five years, subject to certain exceptions outlined in federal and state laws.

Procedures for Military Leave

Unless military necessity prevents it, or is otherwise impossible or unreasonable, an employee should provide Bergen Community College with notice of the need for leave at least thirty (30)

days in advance, or as far in advance as is reasonable under the circumstances.

To request a temporary or extended military leave of absence, the employee should generally obtain a request for leave of absence form from the Human Resource Department. Written notice is preferred, but not required under the law or this policy.

The Human Resource Department will review the request for leave of absence, collect any applicable insurance premiums from the employee, generate other applicable documents and process the leave of absence accordingly. In the event of verbal notice by the employee, the Human Resource Department will document the military leave on a leave of absence form. The Human Resource Department may require submission of military orders or training schedules.

Employees on temporary or extended military leave may, at their option, use any or all accrued paid vacation or personal leave during their absence. When the employee intends to return to work, he or she must make application for reemployment to the Human Resource Department within the application period set forth below. If the employee does not intend to return to work, he or she should notify the Human Resource Department as soon as practicable.

Benefits

If an employee is absent from work due to military service, benefits will continue as follows:

An employee on extended military leave may elect to continue group health insurance coverage for the employee and covered dependents under the same terms and conditions for a period less than 31 days from the date the military leave of absence begins. The employee must pay, per pay period, the premium normally paid by the employee. After the initial 31-day period, the employee and covered dependents can continue group health insurance for up to 24 months at 102% of the overall (both employer and employee) premium rate. Employees must elect coverage and make the required payments to the Human Resource Department in a timely manner to continue coverage. As stipulated by federal and state laws.

Pursuant to N.J.S.A. 38A:4-4, any employee who is a member of the Organized Militia is entitled to leave of absence without loss of pay on all work days during which they are engaged in a period of State or Federal active duty for up to ninety (90) work days in the aggregate in a calendar year. Any leave in excess of ninety (90) work days shall be unpaid.

Pursuant to N.J.S.A. 38:23-1 Any employee who is a member of the organized reserves is entitled to leave of absence without loss of pay on all work days during which they are engaged in a period of Federal active duty, for up to thirty (30) work days in the aggregate in a calendar year. Any leave in excess of thirty (30) work days shall be unpaid.

Employees do not accrue vacation time while out on an unpaid leave of absence. With respect to Bergen Community College's retirement plan, upon reemployment, employees who have taken military leave will be credited for purposes of vesting with the time spent in military service and will be treated as not having incurred a break in service. Immediately upon reemployment, the employee may, at the employee's election, make any or all employee contributions that the

employee would have been eligible to make had the employee's employment not been interrupted by military service. Such contributions must be made within a period that begins with the employee's reemployment and that is not greater in duration than three times the length of the employee's military service. Employees will receive all associated company match for such contributions.

During an extended military leave of absence, employees' college accounts will be suspended, except for access to essential employment-related systems, in compliance with federal and state laws.

Reemployment

Upon an employee's prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending upon the employee's period of military service:

- *Less than 91 days of military service* – reinstated to a position that the employee would have attained if employment had not been interrupted by military service; or, if found not qualified for such position after reasonable efforts by Bergen Community College, in the position in which the employee had been employed prior to military service.
- *More than 90 days and less than 5 years of military service* – reinstated to a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status and pay, the duties of which the employee is qualified to perform; or, if proved not qualified after reasonable efforts by Bergen Community College, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
- *Employee with a service-connected disability* – if after reasonable accommodation efforts by the employer, an employee with a service-connected disability is not qualified for employment in the position he or she would have attained or in the position that he or she left, the employee will be employed in another position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by Bergen Community College; or, if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

Application for Reemployment

An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, submit an application for reemployment to the Human Resource Department according to the following schedule:

- *If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service)* - the employee must report for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.
- *If service is for 31 days or more but less than 181 days* - the employee must submit an application for reemployment with HR no later than 14 days following the completion of service.

- *If service is over 180 days* - the employee must submit an application for reemployment with the Human Resource Department no later than 90 days following the completion of service.
- *If the employee is hospitalized or convalescing from a service-connected injury* - the employee must submit an application for reemployment with HR no later than two (2) years following completion of service.

Exceptions to Reemployment

In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if any of the following conditions exist:

- Bergen Community College's circumstances have so changed as to make reemployment impossible or unreasonable.
- Reemployment would pose an undue hardship upon Bergen Community College.
- The employee's employment prior to the military service was merely for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.
- The employee did not receive an honorable discharge from military service.

General Benefits Upon Reemployment

Employees reemployed following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. An employee's time spent on active military duty will be counted toward eligibility for FMLA leave. Additionally, upon reemployment, a covered employee will not be discharged except for cause for up to one year following reemployment.

Documentation

The Human Resource Department will, upon the employee's reapplication for employment, request that the employee provide Bergen Community College with military discharge documentation to establish the timeliness of the application for reemployment, the duration of the military service, and the honorable discharge from the military service, if applicable.

Retaliation

The College prohibits retaliation against individuals who, in good faith, assert their rights under any College policy or applicable law, including but not limited to the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). This protection extends to individuals who bring a complaint, participate in an investigation, or protest conduct prohibited by college policy or federal and state laws. Retaliation is a separate offense from the original complaint and will be considered independently of the merits of the underlying claim. Individuals who believe they have been subjected to retaliation should report the conduct to the Human Resources Department.

Related Documents/Policies:

Policy History: (adopted/amended)

Adopted: October 8, 2025

Amended: