

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

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TITLE: MILITARY LEAVE

**POLICY
REFERENCE NUMBER:** 8-3-103

**DIVISION OF
RESPONSIBILITY:** Human Resource Services

DATE OF LAST REVISION: May 12, 2022

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Refer to State Board for Technical and Comprehensive Education (SBTCE) Procedure 8-3-103.8 Family & Medical Leave Act regarding qualifying exigencies, as well as the US Department of Labor's website and CFR Title 20, Part 1002- Regulations Under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

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I. Short-Term Military Training

Employees in a full-time equivalent (FTE) position or eligible temporary grant/time-limited positions who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve, are entitled to leaves of absence from their respective duties without loss of pay, time, or efficiency rating, for one or more periods not exceeding an aggregate of fifteen (15) regularly scheduled average work days in any one year during which they may be engaged in training or any other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. Saturdays, Sundays, and State holidays may not be included in the 15-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled work day for the officer or employee involved. In the event any such person is called upon to serve during a declared emergency, the employee is entitled to such leave of absence for a period not exceeding thirty (30) additional days. Any one year means either a calendar year or, in the case of members required to perform active duty for training or other duties within or on a fiscal year basis, the fiscal year of the National Guard or reserve component issuing the orders.

A state employee in a full-time equivalent position (FTE) or eligible temporary grant/time-limited position who serves on active duty in a combat zone and who has exhausted all available leave for military purposes is entitled to receive up to thirty (30) additional work days of military leave in any one year¹.

II. Long-Term Military Leave of Absence

Every employee of the State or any political subdivision thereof who, on or after June 25, 1950, has been, or shall be commissioned, enlisted, or selected for service in the Armed Forces of the United States (excluding short-term training) shall, so long as the requirements and regulations of the armed forces shall prevent their return to their civil employment for a period of 90-days thereafter, but in no event for a period longer than 5 years from the date of entry into the Armed Forces of the United States, be entitled to

¹ Please refer to the related General Appropriations Bill, for any additional options that may be provided in the current fiscal year.

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leave of absence from their duties as an employee of the State or any political subdivision thereof, without loss of seniority or efficiency, register ratings. The word “employee” as used herein shall not be construed to mean an officer or official elected or appointed to a term pursuant to a statute or the Constitution of this State.

III. Return to Work

Under USERRA, an employee must provide timely notice of their intent to return to work by either reporting to work or submitting a timely application for re-employment. Whether the employee is required to report to work or submit a timely application for re-employment depends upon the length of the following:

- Period of service less than thirty-one (31) days or for a period of any length for the purpose of a fitness examination. The employee must return at the beginning of the next regularly scheduled work period on the first full day after release from military service, taking into account safe travel home plus an eight (8) hour rest period.
- Period of service more than thirty (30) days but less than one hundred eighty-one (181) days. The employee must provide notice of their intent to return within fourteen (14) calendar days of release from service.
- Period of service more than one hundred eighty (180) days. Notice must be submitted within ninety (90) calendar days of release from service.

Once an employee notifies their immediate supervisor of their intent to return to work, the actual date for reporting to work is negotiable.

IV. Leave Records

The System Office/College shall maintain all leave records for each employee eligible for such leave. Such records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by individual leave requests. It is acceptable for employee leave requests to be created, approved and maintained via a secure (password protected) electronic system. If such a system is used, approval through the system will be considered the required signature of the employee and supervisor. Employees shall be able to view and print the leave records.

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Failure to report leave taken is considered a falsification of work/time records and could be construed as being paid for hours not worked in violation of the S.C. Code Ann. § 8-11-30 and may be subject to disciplinary action up to and including termination.