



Wesley Woods Senior Living, Inc.

SUBJECT: Military Leave

THIS POLICY

Policy Number: 404

Effective Date: 11/01/2002

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REPLACES POLICY

Policy Number: 404

Effective Date: 10/01/93

Purpose:

The Uniformed Services Employment and Re-employment Act of 1994 (USERRA) provides guidelines for employees who elect military leave and for the prompt reemployment of employees who left employment to perform military training or service in one of the Uniformed Services and who have completed such service under honorable conditions.

Definition:

The Uniformed Services means the Armed Forces, the Army National Guard, and Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

Discrimination Prohibited:

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service or obligation.

Granting Military Leave of Absence:

Employees who enter in the uniformed services are entitled to military leave of absence without pay for a period not to exceed 5 years.

Credited Service:

All periods of military leave without pay will be counted as credited service for all benefits that are based on length of service, including service awards.

Re-employment Rights:**General Requirements:**

Employees who are absent from work for the reason of serving in the Uniformed Services, or for the purpose of an examination to determine fitness to perform service, whether voluntarily or involuntarily, are entitled to reemployment rights and other benefits if (1) the cumulative period does not exceed 5 years; (2) the employee is honorably discharged; and (3) the employee reports for reemployment according to the following time limits (based on the length of military service):

- Employees whose period of uniformed service is less than 31 days must report to work on the first regularly scheduled workday following returning from the place of duty (8 hours is allowed to return home from place of duty).
- Employees whose period of uniformed service was more than 31 days but less than 180 days must submit an application for reemployment no later than 14 days after the completion of service.
- Employees whose period of uniformed service was more than 180 days must submit an application for reemployment no later than 90 days after completion of service.

Documentation must be provided to establish timeliness of application, and to ensure that all eligibility requirements for reemployment are met. Failure to provide documentation cannot be used as a basis to deny reemployment if the requested information is not readily available through no fault of the employee.

Wesley Woods is not required to reemploy an employee if the employment from which he/she leaves to serve in the uniformed services is for a brief, non-recurrent period and there is not reasonable expectation that such employment will continue indefinitely or for a significant period.

Re-Employing a Disabled Veteran:

An employee who has a disability incurred in, or aggravated during military service, and who (after reasonable efforts by the department to accommodate the disability) is not qualified due to the disability to be employed in the former position must promptly be reemployed in any other position which is: equivalent in seniority, status and pay, or the nearest approximation to a position in terms of seniority, status and pay, consistent with circumstances of the person's case.

Determining Position Upon Re-Employment:

An employee whose period of uniformed service was:

- Less than 91 days of service must be reemployed, promptly, in a position that he/she would have attained if continuously employed. If not qualified for that position (after reasonable attempts to qualify the employee) the employee must be reemployed in the position he/she left.
- For service of 91 days or more, the requirement is the same, however, a position of like seniority, status and pay may be offered.

Re-employment Rights (Continued):**Discharging the Employee:**

Employees returning from military leave may not be discharged, except for cause, within these time limits:

- Within the first year of reemployment, if the period of service was more than 180 days, or
- Within the first 6 months of reemployment, if the period of service was between 30 and 180 days.

Benefits:**Accrued Leave**

In accordance with federal law, employees are not required to use vacation or comprehensive leave for military leave. Employees must request in writing to use unused leave balances or take leave without pay for the entire leave period.

Employees on military leave will continue to accrue comprehensive and extended illness leave during the annual duty training (usually 2 weeks). No leave will be accrued if the leave without pay exceeds two weeks.

Health, Dental, Life & Flexible Spending Accounts

An employee and his/her dependents are eligible to continue participation in the health and dental plan and medical flexible spending account while the employee is on military leave by paying the employee's monthly contribution. The maximum period of coverage shall be the lesser of:

- the 18-month period beginning the date the employee's leave of absence begins; or
- the day after the date on which the person fails to return to (or apply for) a position of employment as described in the applicable provision of the Uniformed Services Employment and Reemployment Rights Act of 1994.

If the employee cancels his/her health and dental coverage while on leave, upon reemployment, the employee must notify Wesley Woods Senior Living within 31 days of returning to work of his or her reenrollment in the health and dental plans in which he or she was enrolled prior to the leave.

Wesley Woods Senior Living will continue to provide Basic Term Life Insurance coverage. The employee and dependents may continue enrollment in the supplemental life, dependent(s) or personal accident insurance by paying the monthly premium(s).

Disability Insurance

Participation in the Short-Term and Long-Term Disability plans.

Retirement Plan

An employee's service in the military must be counted in determining his/her vested interest and accrued benefits in the Retirement Plan only to the extent required to do so under the law.

Courtesy Scholarship

Courtesy Scholarship for dependents may continue during a military leave.

Documentation:

All Personnel Action Forms (PAFs) should be submitted to Human Resources at the time of the military leave along with all supporting documentation placing the employee on Military Leave Without Pay.