

# **MILITARY LEAVE** at INDIANA UNIVERSITY



A Summary for Staff and Hourly Employees and Their Families

# Introduction

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The Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Code of Federal Regulations (CFR), Part 1002 of Chapter 11 of Title 20, establish rights for employees who serve or have served in the uniformed services of the United States. Members of the Armed Forces, National Guard, Commissioned Corps of the Public Health Service and the National Disaster Medical System under federal activation are covered.

This booklet is intended for Staff and Hourly employees and their families. It is a summary of federal law and regulations, as well as university personnel policy, for extended active military duty. For information about short leaves and routine drills, see the Indiana University personnel policy, Leaves for Military Duty.

Employees covered by this booklet are appointed Staff employees and Hourly employees who are in positions that are recurrent and have a reasonable expectation of continued employment.
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For more detailed information, contact a campus Human Resources office. You may also want to visit [www.indiana.edu/~uhhrs/policies/index.htm](http://www.indiana.edu/~uhhrs/policies/index.htm) and refer to the following Indiana University personnel policies for your employee group:

- Leaves for Military Duty
- Time Off Accruals during Absences
- Reemployment Provisions
- Family and Medical Leave Act (FMLA) Rights

In addition, these two resources published by the U.S. Department of Labor are available on the Web:

- Veterans' Employment and Training Service (VETS) has a comprehensive Web site with announcements and the latest USERRA information at [www.dol.gov/vets/](http://www.dol.gov/vets/).
- USERRA Advisor is an interactive online guide available at [www.dol.gov/elaws/userra.htm](http://www.dol.gov/elaws/userra.htm).

# Before you leave

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As soon as you become aware that you are leaving to serve in the military, inform your supervisor or department head. They, in turn, will contact the campus Human Resources office to insure university compliance with USERRA and the regulations.

If you intend to return to IU, the department will place you on a Military Leave of Absence; if your current plans are not to return to IU, the department will separate you from employment.

Whether you go on a Military Leave of Absence or separate from Indiana University, you'll want to think about and decide whether to continue:

- Existing IU-provided medical and dental plan coverage for you and your dependents
- Tax Saver Benefit Plan

When you request a Military Leave of Absence, you will receive a confirmation of your benefit elections telling you what you can elect and at what cost.

- If you go on a Military Leave of Absence, you'll pay your share of the premium cost only for as long as you are on an approved leave, e.g., 5 years. If you separate, you'll pay 102 percent of coverage for up to 24 months through COBRA coverage. See a campus Human Resources office for details on how to do this.
- To continue medical and dental coverage, and to continue participating in the Tax Saver Benefit Plan, see a campus Human Resources office to make sure this is what you want to do.

## Personal information

Review your personal and emergency contact information to ensure it is accurate and up to date. Changes or corrections can be made by completing the form provided at [www.indiana.edu/~uhrs](http://www.indiana.edu/~uhrs). While on military leave, please inform Human Resources if your permanent address changes because it may affect your eligibility for medical plans that cover a specific service area.

Ensure that the personal information and benefits coverage for your dependents and beneficiaries is current. You can review this information and make changes online, if you wish, at the Benefits Self Service area of OneStart.

# Eligibility period

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The time limit for which you can remain eligible for USERRA rights and benefits is a cumulative period of five years away from work. Only active duty counts as time away. The time between completing the uniformed service and reporting back to work, or requesting to return, does not count against the five-year limit.

This five-year limit may be extended. The law provides for exceptions which you must discuss with a campus Human Resources office.

# Return to work

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Once you complete your service, contact your department, requesting to return to work. You may contact them in person, by telephone, or in writing.

Your department is supposed to return you to work within two weeks of the request, as long as you meet the following criteria:

- Your discharge from military service is under honorable conditions. (Employees without an honorable discharge are reviewed on an individual basis.)
- The cumulative period of time you were away from the university in military service does not exceed five years. If it does, consult with a campus Human Resources office to see if the USERRA-provided exceptions apply to your situation.
- Depending on the length of military service, you must apply (orally or in writing) to return to work within the time limits shown in the chart below. You are allowed a reasonable amount of time to return home, to rest, and to travel to your place of employment. This time is not included when calculating the time limits.

<b>If you serve for this amount of military service</b>	<b>You must apply (orally or in writing) to return to work this many days after release from duty</b>
Less than 31 days	At the beginning of the first regularly scheduled workday
31 through 180 days	No later than 14 days
Over 180 days	No later than 90 days

# After you return to work

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If you meet the criteria listed in the previous section, you will be restored to the status you would have enjoyed with reasonable certainty as an employee—as if the leave or separation had not occurred—and receive the benefits listed below.

## Staff employees

- Working conditions established by your length of university service
- The position you would have been in, including the completion of any evaluation period that would have expired while you were away
- The salary or pay rate you would have been at
- IU-funded contributions that would have been made to your retirement plan—a “catch-up” amount, plus PERF service credit if you were in a PERF-covered position
- Restoration of unused income protection time and vacation time or PTO
- Accrual of vacation/PTO for the period you were in military service, up to a limit of one year’s accrual

For example, if you earn 30 days a year and you were away for two years, you will have 30 days added to your balance; if you were away for six months, you will have 15 days added to your balance.

- The university seniority date that existed at the time of separation, if you separated from the university
- The occupational unit seniority date, provided you are returned to the same occupational unit
- University service credit, plus the time away from work during the military separation, if you separated from the university
- Time in the military service will count towards fulfilling requirements you need to be eligible for an FMLA leave

Staff employees who submitted an explicit, written resignation receive all the items in the list, except the following: IU-funded retirement plan contributions, unused income protection time and vacation time or PTO, and accrual of vacation/PTO for the time away.

## Hourly employees

- Working conditions established by your length of university service
- The position you would have been in, including the completion of any evaluation period that would have expired while you were away
- The salary or pay rate you would have been at
- IU-funded contributions that would have been made to your retirement plan—a “catch-up” amount, plus PERF service credit if you were in a PERF-covered position
- University service credit, plus the time away from work during the military separation, if you separated from the university (available to PERF-covered employees only)
- Time in the military service will count towards fulfilling requirements you need to be eligible for an FMLA leave

## Staff and Hourly employees

You are entitled to return to work if you were placed on a Military Leave of Absence or if you separated from IU employment due to military service. Even if you give an explicit, written statement at the start or during the leave saying you do not intend to return to work at the university and you resign or separate based on this statement, you have the right to return to work.

If you return to work under the provisions of USERRA, your employment rights are as follows:

- If your most recent period of uniformed service is less than 181 days, you cannot be terminated, except for just cause, for 180 days after your date of return.
- If your most recent period of service is more than 180 days, you cannot be terminated, except for cause, for one year after the date of your return.

To be terminated due to just cause means there is a real and legitimate reason—one that is sustainable.

## Benefits enrollment

Even if you do not elect to continue coverage when you leave for military service, you will have the opportunity to re-enroll in the university’s benefits plans within 60 days of your return to work in an eligible position. Proof of good health is required to re-enroll in certain plans.



**Indiana University  
University Human Resource Services**

[www.indiana.edu/~uhrs](http://www.indiana.edu/~uhrs)