

Reemployment Provisions

HR



About This Policy

Effective Date:

Last Updated:

08-22-2012

Responsible University Office:

University Human Resources

Responsible University Administrator:

Vice President and Chief Financial Officer

Policy Contact:

University Human Resources

policy@iu.edu

Related Information

* IU Human Resources Leaves for Military Duty and Leaves for Military Families policy

* Uniform Services Employment and Re-employment Rights Act of 1994

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Scope

This policy applies to all Staff and Temporary employees.

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Policy Statement

1. A Staff employee who separates employment from the University or takes a military leave of absence and who later returns to a staff position has certain provisions restored, if eligible, upon reappointment.
2. A Temporary employee on military leave who separates employment from the University or takes a leave of absence and who later returns to a Temporary position has certain provisions restored, if eligible, upon reappointment.

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Reason For Policy

This policy provides University managers and supervisors with guidelines and procedures for reemployment provisions for Staff and Temporary employees.

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Procedure

- The table below is a summary only. See the appropriate section in this policy to determine whether an employee is eligible. **Reemployment Provisions At-a-Glance**

Type of provision restored	After a RIF	After a voluntary separation	After a medical-related separation	After a military separation or military leave of absence*
Unused sick time	Yes	No	Yes	Yes
Unused vacation time	Yes	No	Yes	Yes
University seniority	Yes	No	Yes	Yes
Occupational unit seniority	Yes	No	Yes	Yes
University Service Credit	Yes	Yes	Yes	Yes
Retirement Plan Benefits	No	No	No	Yes
Vacation or PTO Accrual	No	No	No	Yes

* Veterans are fully restored to the status that he or she would have enjoyed as an employee. See Section D. for conditions and details.

- Permanent reduction in force
 - An employee who is reappointed to a staff position in any department within 18 months after being separated from the university because of a permanent reduction in force will have the provisions listed below restored.
 - Unused sick time (income protection time) or sick bank time
 - Unused accumulated vacation time (in excess of the separation vacation allowance for which the employee did not receive separation pay) or PTO
 - University seniority date that existed at the time of separation
 - Occupational unit seniority date that existed at the time of separation, provided the employee is reappointed in the same occupational unit
 - University service credit plus the time away from work during the reduction in force
- Medical-related separation
 - An employee who is reappointed to a staff position in any department within 12 months after a medical-related separation limited to the list below will have the provisions listed below restored.
 - A separation for pregnancy
 - A separation for postnatal infant care (for approximately the first year of life)
 - A separation due to sickness or bodily injury that totally disabled the employee from fulfilling his or her former position
 - Upon reappointment, the employee will have the following provisions restored:
 - Unused sick time (income protection time) or sick bank time
 - Unused accumulated vacation time or PTO for which the employee did not receive separation pay.
 - University seniority date that existed as of the time of separation.
 - Occupational unit seniority date that existed as of the time of separation provided the employee is reemployed in the same occupational unit.
 - University service credit plus the time away from work during the medical-related separation.
- Military leave of absence or separation
 - As soon as a supervisor or department head is informed or becomes aware that an employee is requesting to return from military service, the supervisor or department head must consult with the campus Human Resources office to insure University compliance with the **Uniformed Services Employment and Reemployment Rights Act (USERRA)** and the related regulations.

- b. Staff and Temporary employees (excluded are positions that exist for a brief, non-recurrent period with no reasonable expectation that the employment will continue for a significant period) who take a leave of absence or separate to enter military service are entitled to the reemployment provisions of USERRA. When an employee completes military duty and meets the conditions below, the veteran is to be restored to the status that he or she would have enjoyed with reasonable certainty as an employee as if the leave or separation had not occurred. This includes, if applicable:
- Working conditions established by one's length of university service.
 - The position that the person would have been in had the leave or separation not occurred. This may be at the same, higher or lower classification level and includes the completion of any evaluation period that would have expired during this time.
 - Restoration of unused income protection time and vacation time or PTO, as applicable.
 - The university seniority date that existed at the time of separation, if a separation occurred.
 - The occupational unit seniority date provided the employee is returned to the same occupational unit.
 - University service credit plus the time away from work during the military leave of absence or separation, if a separation occurred.
 - The salary or pay rate that the employee would have been at but for the absence for military service.
 - IU-funded contributions that would have been allocated to the employee's retirement plan but for the absence for military service.
 - The time in the military service will count towards fulfilling the length of employment and hours of work requirements to be eligible for a leave under the FMLA policy.
 - Accrual of vacation/PTO for the period in military service up to a limit of one year's accrual per period of military service. This amount will be awarded only if the individual returns to work. The rules on the maximum usage of vacation or PTO in a year will continue to apply.
- c. Depending on the length of military service, employees must apply (orally or in writing) to return to work within the time limits stated below.

Staff and Temporary employees who serve for this amount of military service	Must apply (orally or in writing) to return to work this many days after release from duty
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

* Employees must be allowed, however, a "reasonable" time to return home, rest, and travel to their place of employment.

- The university's obligation under the related law covers a cumulative period of five years of military service.
 - If an employee is hospitalized or recovering from an illness or injury incurred in or aggravated during active duty, the employee must apply to return to work at the end of the period necessary for recovery, but not more than two years from the date of completion of service. The law provides for other exceptions to the five-year limit which are to be discussed with the campus Human Resource Office if a case arises.
 - The right to return to work applies even if the employee gave an explicit written statement at the start or during the military service that he or she did not intend to return to work at the university and resigned or was separated based on this statement. However, upon his or her return to work, such an employee is not entitled to the non-seniority rights and benefits of restoration of unused paid time off, accrual of vacation/PTO for the period in military service, and IU-funded contributions to the employee's retirement plan.
 - An employee who meets the criteria described in this section and requests to return to work, must be returned within two weeks of receipt of his or her request.
 - An employee returned to work under the provisions of USERRA may not be terminated except for cause for 180 days after his or her date of return if the most recent period of uniformed service was less than 181 days or for one year after the date of return if the most recent period of uniformed service was more than 180 days.
 - An employee is not entitled to any USERRA rights or benefits if the employee separated from military service with a dishonorable or bad conduct discharge or under "other than honorable" conditions as defined by the regulations for the particular branch of military service.
- Voluntary separation
 - Upon reappointment to a staff position, an employee who had previously voluntarily separated from a university-staff position will receive university service credit as defined in the Seniority Dates/Service Credit policy.
 - The decision to reemploy an employee is at the sole discretion of the department. Nothing in this section will be construed to provide any preferential employment rights.
 - The provisions of this section apply for reappointments following reductions-in-force, medical-related separations or military separations, which occur after the time limits stipulated for each of these categories.
- Use of Time Off
 - As with new appointments, Staff reemployed under conditions outlined above may use accumulated time off after receipt of their first paycheck.

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Definitions

The regulations define *temporary positions* as those that exist for a brief, non-recurrent period with no reasonable expectation that the employment would have continued for a significant period.

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Sanctions

Violations of University policies will be handled in accordance with applicable University policies and procedures; which may include disciplinary actions up to and including termination from the University.

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Additional Contacts

Policy Interpretation

UHR

812-856-6047

policy@iu.edu

Policy Interpretation

Campus HR office

Various

HR Records

UHR

812-855-2172

recben@iu.edu

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History

This policy updates the Reemployment Provisions policy: AFSCME (BL, IN, SB) 2.12, CWA 10.8, PA/SS 3.8, Police (BL) 5.15, Police (SB) 2.22, Temporary 6.3