

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 1 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

I. Introduction and Summary:

It shall be the policy of the Georgia Department of Corrections (GDC) that after proper notice has been given by the employee to the Appointing Authority, an Eligible Employee shall be entitled to be absent from work while engaged in the performance of Ordered Military Duty.

II. Authority:

- A. Uniformed Services Employment and Reemployment Rights Act (USERRA);
- B. State Personnel Board Rules: 478-1-.16 Leave of Absence Without Pay and 478-1-.19 Military Leave;
- C. GDC Standard Operating Procedures (SOP): 104.37 Working Hours, Overtime and Compensatory Time, 104.39.02 Annual Leave, 104.39.04 Leave Without Pay, and 104.39.11 Personal Leave; and
- D. State Health Benefit Plan Professional Guide; GaBreeze Benefits Professional Guide.

III. Definitions:

- A. **Eligible Employee** - The term Eligible Employee, for the purposes of this procedure, includes individuals hired by GDC to provide services for wages. It excludes independent contractors, volunteers, unpaid interns, Board Members paid on a per diem basis, and temporary employees.
- B. **Ordered Military Duty** - Includes any military duty performed in the service of the State or of the United States pursuant to orders issued by a State or federal authority, including but not limited to attendance at any service school or schools conducted by the Armed Forces of the United States as a voluntary member of the National Guard, Georgia State Defense Force, or any reserve force or reserve component of the Armed Forces of the United States.
- C. **Service in the Uniformed Services** - The performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and funeral honors duty performed by National Guard or reserve members.

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 2 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

- D. **Leave of Absence for Ordered Military Duty** - An employee shall be entitled to be absent from work while engaged in the performance of Ordered Military Duty and while going to and returning from such duty.
- E. **Federal Fiscal Year** - The Federal Fiscal Year shall be defined as October 1st through September 30th.
- F. **Notice** - Any written or verbal notification (as in the event of a military emergency or declaration of war) or an obligation or intention to perform service in the uniformed services, provided by the employee who will perform such service, or by the uniformed service in which such service is to be performed.

IV. Statement of Policy and Applicable Procedures:

- A. **Notice:** An employee shall notify his/her supervisor immediately of an intent to leave the employment position to report for military duty. Notice may be given either orally or written. The employee is expected to provide his/her supervisor with as much Notice as possible of his/her anticipated date of release from duty and return to work. The affected employee is required to provide a copy of official military orders to his/her supervisor as soon as possible after receipt. The submission of a copy of orders or annual training schedule is a requirement for the employee to receive paid military leave for the period of absence.
- B. **Leave Status:**
1. An employee reporting to military duty is eligible for paid military leave while engaged in the performance of such duty, and while going to and returning from such duty, not to exceed a total of one hundred forty-four (144) hours in any one federal fiscal year.
 2. In the event the Governor of the State of Georgia declares an emergency and orders an employee to military duty as a member of the National Guard, the employee will be paid his/her base pay and other compensation for an additional 96 hours of military leave in any one federal fiscal year while he/she is performing such duty. Only employees who are members of the National Guard or other activated units will be eligible for the additional ninety-six hours of paid military leave. As with Ordered Military Duty, employees activated under this emergency provision will be required to present a copy of their military orders. Orders must be forwarded to Corrections

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 3 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

Human Resources Management (CHRM) for review. If approved, the employee will be enrolled for the additional (96) leave hours into the Absence Management module in PeopleSoft by CHRM.

3. Absence from work due to orders received to report for any pre-induction or other examination to determine physical or other fitness for service in the armed forces of the United States shall be granted a leave of absence without pay as required by law. GDC employees may request such absence to be charged against accrued annual leave, personal leave, compensatory time, or holiday deferral in order to receive pay during such leave of absence.
4. An employee whose work schedule is established as less than full-time shall be eligible for paid leave as specified above, prorated upon the employee's normal work schedule.
5. When an employee is absent from employment due to Ordered Military Leave, the amount of military leave charged against the employee's military leave balance shall be only the hours and minutes necessary for the employee to reach his/her regularly scheduled hours per week.
6. If absences for Ordered Military Duty exceed 144 hours (or 240 hours in the event of a military emergency) in any one federal fiscal year, the employee may request to use accrued annual, personal, and compensatory leave balances or holiday deferral. If the employee does not request leave, that employee will be placed on Military Leave Without Pay. This must be designated in writing on the Military Activation Form (Attachment 1). An employee shall not be denied the use of any accrued leave for Ordered Military Duty, nor shall the employee be required to use his/her accrued annual, personal, and compensatory balances or holiday deferral.
7. When an employee is placed on Military Leave Without Pay, a Personnel Action Request form must be submitted to the assigned CHRM HR Analyst with the Action/Reason Code: LOA MIL (Military Service).
8. If Military Leave Without Pay is for more than 30 days, the employee may make a written request for payment of the full balance (up to 360 hours) of his/her accumulated annual leave. No partial balance shall be paid. The local HR Representative shall submit the employee's request, along with a Leave Verification form, to the assigned CHRM HR Analyst for processing.

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 4 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

9. Any military leave balance not used during the federal fiscal year will be lost at the end of the federal fiscal year and shall not be converted to any other type of leave (e.g., Compensatory, Annual, Personal).

C. Entitlements/Limitations:

1. Time served while on Ordered Military Duty will not be considered a break in service and will be credited for purposes of seniority, length of employment service, annual leave or holiday privileges, or for any other right or privilege of employment, reemployment, reinstatement, transfer or promotion.
2. An employee on military leave, whether paid or unpaid, may continue to contribute to the State's pension or retirement system as if they had been present and continuously engaged in the performance of their duties. The amount of required contributions will be deducted from the salary or other compensation paid while an employee is on military leave. If the required contributions exceed the amount of such compensation, the available amount will be applied towards the required contributions and the employee can pay the difference.
3. When determining eligibility under the Family Medical Leave Act (FMLA) for an employee returning following a period of military service, the hours performed during this absence should be credited as service time.
4. In general, an employee may be absent for Ordered Military Duty for a cumulative period of up to five years and retain reemployment rights with the department. The five-year period includes only the time the employee spends performing Ordered Military Duty. A period of absence from employment before or after performing Ordered Military Duty does not count against the five (5) year period.
5. An employee is eligible to receive leave to attend training for a total of up to six (6) months during any four (4) year period.

D. Benefits Continuation:

1. Prior to the employee's departure for Ordered Military Duty, local HR Representatives should ascertain that employee's desires regarding continuing or discontinuing Health Insurance, Flexible Benefits, and other benefits.

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 5 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

- a. If the employee chooses to continue health insurance coverage during the leave of absence, premiums must be paid by the employee and will be after-tax premiums. The first payment must be submitted to the local Personnel Representative with a Request to Continue Health Benefits during a Leave of Absence without Pay form. (Premiums continue to be deducted as long as the employee remains in pay status). This form along with payment shall be forwarded to CHRM Benefits Unit for processing. The employee shall submit payments to Local HR by the fifteenth (15th) of each month prior to coverage. The employee may continue the coverage for the period of approved absence up to 12 calendar months. The employee shall provide a copy of his/her military orders. (If the employee returns during the same Plan Year and personal premiums were paid by the employee during the absence, health insurance must be reinstated.)
2. If the employee chooses to discontinue health insurance during the military leave of absence, that employee shall contact State Health Benefit Plan (SHBP). Coverage is cancelled at the end of the month following the last payment.
3. Flexible Benefit coverage may be continued or discontinued, in whole or in part, while on Military Leave without Pay. If the employee chooses to continue any Flexible Benefit coverage, the employee shall contact the GaBreeze Benefits Call Center. The employee will be billed directly from AonHewitt for payments for up to 24 months with the exception of Long Term Care in which the individual carrier bills the employee directly.
 - a. Employee Life/Dependent Life Insurance: Coverage(s) may be continued and the employee can pay the premiums while on Military Leave without Pay. If the employee elects not to pay the Employee Life premiums, the Dependent Life premiums cannot be continued.
 - b. Accidental Death and Dismemberment (AD&D): The AD&D policy provides an exclusion for "armed conflict". Therefore, activated employees shall not continue this coverage while on Military Leave.
 - c. Short-Term Disability and Long-Term Disability: These policies do not cover "any disability which results from or is caused or contributed by war or any act of war".

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 6 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

- d. Dental: The activated employee shall not have coverage for "dental care resulting from any injury sustained as a result of war, declared or undeclared, or any action of war or any resistance to armed invasion or aggression or international police action". Family Dental coverage shall be continued for eligible family members.
 - e. Health Care Spending Account: Personal after-tax premium payments are allowed, but if not made, coverage will terminate at the end of the month following the last full month's contribution.
 - f. Dependent Care Spending Account: Personal after-tax contributions are allowed while on Military Leave without Pay but there will be no tax advantage in doing so.
 - g. Long-Term Care: This policy provides an exclusion for disabilities caused by war. Therefore, the employee is not required to continue this coverage while on Military Leave. Coverage may be continued in order to have coverage for a long-term care benefit which is not related to the war exclusion.
 - h. Legal: This policy provides an exclusion for legal services provided outside the United States. Continued premium payments are allowed if desired.
 - i. Vision: Continued premium payments are allowed if desired.
4. Return from Military Leave without Pay during the same Plan Year:
- a. Health Insurance:
 - i. If coverage was discontinued during activation, the employee shall contact SHBP Member Services at 1-800-610-1863 to reinstate.
 - ii. If the employee was directly paying premiums during the absence and returns to active pay status, payroll deductions for premiums shall resume with no break in coverage.
 - iii. If the employee did not discontinue coverage at the time of activation and premiums were not paid during the absence, health coverage and deductions are cancelled during the Military Leave without Pay status. Coverage and premiums will resume when the employee returns to an active pay status.

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 7 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

- b. Flexible Benefits:
 - i. The employee may make changes within 30 days of returning to an active pay status.
 - ii. The employee shall notify the GaBreeze Benefits Call Center for changes to any Flexible Benefits coverage.

- 5. Return to work during a different Plan Year:
 - a. Health Insurance:
 - i. The employee shall be given a 30-day Open Enrollment period.
 - ii. The employee shall contact SHBP Member Services at 1-800-610-1863.

 - b. Flexible Benefits:
 - i. The employee can make changes within 30 days of returning to an active pay status.
 - ii. The employee shall notify the GaBreeze Benefits Call Center for changes to any Flexible Benefits coverage.
 - iii. Benefits coverage within the 30-day timeframe will remain the same as selected upon activation. After the 30-day period has passed, changes cannot be made until the next Open Enrollment period unless a Qualifying Event occurs.

- 6. Employees' Retirement System (ERS): To purchase service credit, employees must contact the ERS within six (6) months of return and express their intent to purchase creditable service for the period of Military Leave without Pay up to a maximum of five years. The employee has either three times the length of qualified service or five (5) years to pay the contributions, whichever is less. Examples: Employee served 6 months; contributions shall be paid within 18 months (3 times the length of service). Employee served 2 years; contributions shall be paid within the five-year maximum time allowed rather than within 6 years (3 times the length of service).

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 8 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

7. **Deferred Compensation:** Deferrals are not allowed while on a leave of absence but will automatically resume upon return to active pay status. If the employee chooses to make a change in their contribution, or “make-up” contributions that were not made to a 457 or 401K account during the absence, the employee must contact the GaBreeze Benefits Call Center.

E. **Return from Military Leave:** GDC will reemploy an employee after a period of military service, provided the employee complies with applicable federal law, including the notice requirement and a timely notification of intent to return to employment, and other qualifying conditions.

1. **Request for Reemployment.** Upon completing a period of ordered military service, an employee shall notify their Appointing Authority of the intent to return to the employment position by either reporting to work or submitting a timely application for reemployment according to the following schedule:

- a. One (1) regularly scheduled work day from discharge for employees who served for less than 31 days;
- b. Fourteen (14) calendar days of discharge by employees who served more than 30 days but less than 181 days; or
- c. Ninety (90) calendar days of discharge by employees whose military duty lasted more than 180 days or longer.

2. Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service. Extenuating circumstances may permit an employee a longer period to make a request for reemployment.

3. **Qualifying Conditions.**

- a. For an employee to be reinstated to their former position, they must be able to perform the essential functions of the position with or without reasonable accommodation. If the employee is no longer able to perform the essential functions because of disability sustained during this service, the employee will be considered for another position in the Department for which they are qualified unless circumstances have changed as to make it impossible to do so.

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 9 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

b. The employee must have received an honorable or general discharge. The employee shall provide the Appointing Authority with a certification of completion of military service duly executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia.

4. Reemployment Position.

a. A qualified employee who has been on military leave for 90 days or less will be reinstated to the position left, with the employee's seniority, status, and pay adjusted for any promotions, pay increases, or other benefits he/she would have earned had they not been on military leave.

b. A qualified employee who served for 91 days or more may or may not be reinstated to the exact same position held prior to going on military leave. An employee who is not reinstated to his/her former position will be reemployed in a position with similar seniority, status, and pay which considers any promotions, pay increases or other benefits that would have been eligible for the employee had he/she not been on military leave.

5. The employee's Department HR Director shall make the final determination in all reinstatements of employees who served for 91 days or more.

6. Upon return, the local HR Representative must submit a Personnel Action Request form to the assigned CHRM HR Analyst with the Action/Reason Code: RFL (Return from Leave).

F. Protection from Discharge: An employee returning from military leave who served for more than 30 days but less than 181 days may not be discharged except for cause for 180 days after his/her reemployment. An employee returning from military leave and who served more than 180 days may not be discharged except for cause for a period of one year after his/her reemployment. The Department HR Director will make the final determination to dismiss for cause any service member.

G. Workforce Replacement: Supervisors who must hire replacement workers for employees who are on military leave shall inform the replacements that they are filling in for employees who are on military leave and may be reassigned to their position upon return.

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Military Leave		
Policy Number: 104.39.05	Effective Date: 5/31/2018	Page Number: 10 of 10
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

V. Attachment:

Attachment 1: Military Activation Form

VI. Record Retention of Forms Relevant to This Policy:

Upon completion, Attachment 1 shall be retained permanently in the employee's local HR file.