



TACOMA HOUSING AUTHORITY

Policy No.	HR-35.35
Policy	Military Leave
Date	September 27, 2009

1. Purpose

The purpose of this policy is to implement THA's obligations under the Veterans' Reemployment Rights (VRR) Statute and the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 as well as related state and federal laws.

USERRA protects the job rights and benefits of persons who perform duty, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services.

In addition, under the Public Health Security and Bioterrorism Response Act of 2002, certain disaster response work (and authorized training for such work) is considered "service in the uniformed services."

2. Sources for Policy

- ▶ Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C §§4301-4333 (USERRA)
- ▶ Employees Retirement Income Security Act (ERISA) of 1974
- ▶ Public Health Security and Bioterrorism Response Act of 2002
- ▶ Americans with Disabilities Act of 1990
- ▶ Military Leaves For Public Employees RCW 38.40.060
- ▶ Employment and Reemployment of Veterans RCW 73.16.033

3. Scope of Policy

Any regular or probationary THA employee who is a member of the service groups listed below shall be entitled to and be granted Military Leave of Absence. This policy does not apply to temporary or sunset employees.

4. Who is Responsible for Implementing Policy

Who	Responsibilities
Employee	Must be familiar and comply with both the applicable laws and this policy.
Supervisor	When a service member makes THA aware of an impending military leave or reinstatement request, the supervisor must handle the request without prejudice.
Human Resources	Will serve as an informed point of reference to a service member employee expecting or holding service member orders, the veteran returning from duty, or the family of a

	deceased veteran.
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5. Definitions

No Definitions

6. Forms Associated with this Policy

No Forms

7. Policy

7.1 Job Rights

7.1.1 Every employee who is a member of the Washington National Guard or of the U.S. Army, Navy, Air Force, Coast Guard or Marine Corps, or of any organized reserve of the United States, will be granted military leave in accordance with state and federal law. Employees who take military leave will have those rights to reinstatement, seniority, vacation, layoffs, and compensation as are provided by applicable law.

7.1.2 Under Washington law, a public employee is entitled to a paid military leave of absence for a period not to exceed 21 working days during each year beginning October 1st and ending the following September 30th. According to guidance from the Attorney General's office, a day is calculated according to the number of days the employee would have worked, but for the military leave. Military leave beyond the 21 days of paid time off will be unpaid, provided that employees may elect to use accrued vacation or other available paid time off during the period of military leave.

Employees should notify their supervisor as soon as they receive notice of the need to report for military duty, and provide the supervisor with a copy of the military orders.

7.1.3 For military absences of less than fifteen (15) days, the service member shall receive their normal pay. Military leave will be in addition to annual, sick and holiday pay.

7.1.4 Returning service-members are reemployed in the same or similar job that they would have attained had they not been absent for military service with the same seniority, status and pay, as well as other rights and benefits determined by seniority.

7.1.5 While an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights afforded other individuals on non-military leaves of absence.

7.1.6 Job rights provided to a veteran expire on the fifth annual anniversary date of the first date of absence.

7.2 Benefit Rights

- 7.2.1 For military service of less than 31 days, health care coverage is provided as if the service member had remained employed.
- 7.2.2 Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 24 months; however, they may be required to pay up to 102 percent of the full premium.
- 7.2.3 Service members are required to use accrued vacation or annual leave while performing military duty.
- 7.2.4 Reinstatement rights as provided to a veteran expire on the anniversary date of five (5) years from the first date of absence. However, the employee's benefits and retirement plans remain subject to ERISA rules indefinitely.
- 7.2.5 In determining whether a reinstated veteran meets the FMLA eligibility requirement, the months employed and the hours employed actually worked for THA should be combined with the months and hours that would have been worked during the twelve (12) months prior to the start of the family medical leave requested but for the military service.

7.3 Reinstatement

- 7.3.1 In order to be reinstated following military service, the service member must
 - (a) Meet the obligations of USERRA
 - (b) Meet the obligations of this policy, and;
 - (c) Not have been released from service under dishonorable or other punitive conditions.
- 7.3.2 Generally, the period an individual has to make application for re-employment or report back to work after military service is based on time spent on military duty.
 - (a) For service of less than thirty-one (31) days, the service member must return at the beginning of the next regularly scheduled work week on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period.
 - (b) For service of more than thirty (30) days but less than 181 days, the service member must submit an application for reemployment within fourteen (14) days of release from service.

- (c) For service of more than 180 days, an application for reemployment must be submitted within ninety (90) days of release from service.
- (d) Service members convalescing from injuries received during service or training may have up to two (2) years from the date of completion of service to return to their jobs or apply for re-employment.

7.4 Prohibition of Discrimination or Retaliation

7.4.1 USERRA and this policy expressly prohibit employment discrimination against a person on the basis of past military service, current military obligations, or intent to serve.

7.4.2 If it is determined that willful and unwarranted military leave is taken by a THA employee, such employee may face disciplinary action according to *THA Policy HR-10.50 Discipline of Regular Employees*.

7.5 Compliance with Legal Requirements

THA complies with all applicable state and federal laws relating to military leave. In the event of any conflict between this policy and any applicable state or federal law, the policy shall be read and interpreted in a manner consistent with applicable law.