

Memorandum

February 16, 2011

To: Human Resources Directors, Benefits Officers, Payroll Officers

From: Leslie E. Williams, University Executive Director of University Employee Benefits *Leslie Williams*

Subject: Military Leave

As you may be aware, at its January 24, 2011 meeting, the Board of Trustees passed a resolution extending Military Leave and employer-paid dependent health care benefits to University employees recalled from the reserves to active military service in response to the events of September 11, 2001, and in light of the wider campaign against terror; which includes military action in Iraq.

The most important parts of the resolution are:

- Supplemental Military Leave:

Section 242 of the New York State Military Law provides for full pay status for 30 calendar days or 22 working days, whichever is greater. The CUNY resolution extends that provision for an additional 30 calendar days or 22 working days, whichever is greater, provided they have not been previously granted Supplementary Military Leave for activation between September 11, 2001 and December 31, 2011. Employees shall be eligible to receive Supplemental Military Leave in accordance with the provisions of this resolution through December 31, 2011.

- Reduced Pay Military Leave:

Employees who exhaust the full pay Supplemental Military Leave will be eligible for Military Leave at Reduced Pay. This leave provides eligible employees with their regular CUNY salaries reduced by their military pay. Military Leave at Reduced Pay will only be granted for military service performed before December 31, 2011.

- Continued Health Insurance Coverage:

This resolution authorizes the continuation of dependent health care coverage without an employee contribution for employees on Reduced Pay Military Leave for a period not to exceed twelve months from the date of activation.

COBRA notices must be given to employees as soon as they are activated to insure dependents have the necessary information to file for the 18- month continuation of coverage once the 12- month period of employer-paid coverage is exhausted.

Employees should be notified, at the time that they are activated of their eligibility for supplemental leave, reduced pay military leave and the twelve-month continuation of employer paid dependent health coverage.

Attached is a copy of an informational poster that your office must post in a place where such notices are customarily posted in the workplace. This posting is required by the Veteran's Benefits law, which amends the pre-existing Uniformed Services Employment and Reemployment Rights Act ("USERRA").

Also, attached is the full resolution as it was voted on by the Board of Trustees on January 24, 2011.

If you have any questions, please do not hesitate to call.

Attachment

C: Vice Chancellor Gloriana Waters
Vice Chancellor Pamela Silverblatt
Vice Presidents and Deans of Administration
Raymond O'Brien

**BOARD OF TRUSTEES
THE CITY UNIVERSITY OF NEW YORK**

No. 3. D. THE CITY UNIVERSITY OF NEW YORK - CONTINUATION OF MILITARY LEAVE AND EMPLOYER-PAID HEALTH AND WELFARE BENEFITS COVERAGE FOR UNIVERSITY EMPLOYEES RECALLED FROM THE RESERVES TO ACTIVE MILITARY SERVICE:

RESOLVED, That the Board of Trustees of The City University of New York, in response to the continuing need for employees in the National Guard and Reserves to be activated for Military Service in response to the events of September 11, 2001, and in light of the continuing evolution of the response to September 11, 2001 into a wider campaign against terror, including military action in Afghanistan, hereby authorizes the continuation of Military Leave and Health & Welfare benefits for University employees in accordance with the following policies. These policies apply to employees of The City University of New York who are members of the National Guard, Reserve forces, or Reserve components of the Armed Forces of the United States.

1. Supplemental Military Leave

- (a) The City University of New York will provide a temporary leave category called Supplemental Military Leave at full pay. Employees of The City University of New York who have been federally activated or activated by the Governor of New York State for military service between September 11, 2001 and December 31, 2011 will be granted Supplemental Military Leave with full pay after the exhaustion of military leave with full pay pursuant to Section 242 of the New York State Military Law. While on such Supplemental Military Leave, the eligible employee will be in full pay status for a period not exceeding 30 calendar days or 22 working days, whichever is greater, in addition to the leave that had been granted pursuant to Section 242 of the New York State Military Law.
- (b) Employees shall be eligible to receive Supplemental Military Leave through December 31, 2011. Supplemental Military Leave shall not be granted for military service performed after December 31, 2011. In no event shall more than one such grant of Supplemental Military Leave be credited to any employee for activation related to the war on terror regardless of the number of times the employee is activated between September 11, 2001 and December 31, 2011.

2. Military Leave at Reduced Pay

- (a) Employees shall be eligible to receive Military Leave at Reduced Pay through December 31, 2011. Military Leave at Reduced Pay status commences after the employee has exhausted Military Leave pursuant to Section 242 of the New York State Military Law, Supplemental Military Leave as set forth in paragraph 1 above, and any leave credits, other than temporary disability leave or sick leave, which the employee elects to use.
- (b) Employees in Military Leave at Reduced Pay status will be paid their regular City University of New York salary (base pay) reduced by military pay (base pay plus housing and food allowances). The determination of rate of payment for the Military Leave at Reduced Pay will be based upon the employee's regular City University of New York salary as of his/her last day in full pay status and the employee's military pay on the first day of his/her activation, and shall not be subject to adjustment during the period of leave at reduced pay.
- (c) Employees eligible for Military Leave at Reduced Pay will not be eligible to earn annual and temporary disability leave/sick leave accruals or to receive credit for holidays.
- (d) In no event shall Military Leave at Reduced Pay be granted for military service performed after December 31, 2011.

3. Continued Health Insurance Coverage

Covered dependents of eligible employees of The City University of New York, who are currently enrolled in a health plan with family coverage through The City University of New York and who have been federally activated or activated by the Governor of New York State for military service related to the war on terror shall continue to receive health insurance coverage with no employee contribution for a period not to exceed 12 months from the date of activation, less any period in which the employee remains in full-pay status. Contribution-free health insurance coverage will end at such time as the employee's active duty is terminated or the employee returns to City University of New York employment or December 31, 2011, whichever occurs first.

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4. Other Provisions

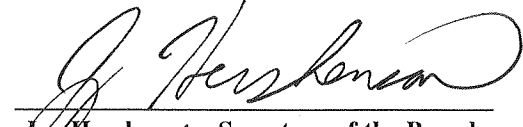
The provisions of this resolution shall not apply to those employees who have voluntarily separated from City University of New York service or who are terminated for cause. Furthermore, the provisions of this resolution shall apply only for the period of time that the employee has an appointment with The City University of New York.

EXPLANATION: On October 22, 2001, November 18, 2002, March 29, 2004, February 28, 2005, January 8, 2007, January 28, 2008, January 26, 2009 and January 4, 2010, the Board of Trustees passed resolutions extending Military Leave and employer-paid health and welfare benefits coverage for University employees recalled from the Reserves to active military service in response to the events of September 11, 2001. This resolution authorizes the continuation of these benefits through December 31, 2011 in response to the need for employees to serve in the Armed Forces in light of the continuing evolution of the response to September 11, 2001 into a wider campaign against terror, including military action in Afghanistan.

This resolution, consistent with the policies being followed by the State of New York for its employees, authorizes, under certain conditions, the continuation of Supplemental Military Leave at full pay for the greater of 30 calendar days or 22 working days, in addition to the Military Leave provided pursuant to Section 242 of the New York State Military Law. Further, after exhaustion of the Supplemental Military Leave, this resolution authorizes a Military Leave at Reduced Pay for military service performed through December 31, 2011, whereby the employee will receive salary from The City University of New York equal to the difference between the employee's regular CUNY salary and the military pay he/she is receiving. Finally, this resolution authorizes the continuation (through December 31, 2011) of dependent health care coverage, under certain conditions, for employees recalled to active service related to the war on terrorism (less any period in which the employee remains in full-pay status).

January 24, 2011 Cal. No. 3. D

A true copy of the resolution adopted by the Board of Trustees



Jay Hershenson, Secretary of the Board
Date: Feb. 7, 2011



YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>**. An interactive online USERRA Advisor can be viewed at **<http://www.dol.gov/elaws/userra.htm>**.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.



U.S. Department of Labor
1-866-487-2365

U.S. Department of Justice Office of Special Counsel

1-800-336-4590

Publication Date—October 2008