


Category:	Compensation and Benefits	INCA Community Services Personnel Policy 
Sub Category:	Leave Policies	
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Forms:		
Responsible:		

Military Leave Policy

Policy

INCA is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is the agency's policy that no employee or prospective employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, promotion, or other benefit of employment on the basis of such membership. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under applicable law or this policy. If any employee believes that he or she has been subjected to discrimination in violation of this policy, the employee should immediately contact the Equal Employment Opportunity Officer or the Human Resource Director.

Eligibility

Employees taking part in a variety of military duties are eligible for benefits under this policy. Such military duties include leaves of absence taken by members of the uniformed services, including Reservists, National Guard members for training, periods of active military service, and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. Subject to certain exceptions under the applicable laws, these benefits are generally limited to five years of leave of absence.

Procedures for Military Leave

- Unless military necessity prevents it, or is otherwise impossible or unreasonable, an employee should provide INCA with notice of the need for leave as far in advance as is reasonable under the circumstances. Written notice is preferred, but not required under the law or this policy.
- To request a temporary or extended military leave of absence, the employee should generally obtain a Request for Leave of Absence Form from Human Resources. However, a written application is not required under the law or this policy.
- Human Resources will review and sign the Request for Leave of Absence Form, collect any applicable insurance premiums from the employee, generate other applicable documents, and process accordingly.

- Employees on temporary or extended military leave may, at their option, use any or all accrued paid vacation or personal leave during their absence.
- When the employee intends to return to work, he or she must make application for reemployment to Human Resources within the application period set forth below.
- If the employee does not return to work, the supervisor must notify Human Resources so that appropriate action may be taken.

Benefits

If an employee is absent from work due to military service, benefits will continue as follows:

- An employee on extended military leave may elect to continue health insurance coverage for the employee and covered dependents under the same terms and conditions for a period not to exceed 31 days from the date the military leave of absence begins. The employee must pay, per pay period, the premium normally paid by the employee. After the initial 31 day period, the employee and covered dependents can continue group health insurance up to 24 months at no more than 102% of the overall (both employer and employee) premium rate. Be sure to elect your coverage and make the required payments to the administrative office in a timely manner to continue your coverage.
- The life insurance provided by the agency will terminate the day the employee becomes active military.
- Employees do not accrue vacation, personal leave or sick leave while on military leave of absence status.
- With respect to the agency's retirement plan, upon reemployment, employees who have taken military leave will be credited for purposes of vesting with the time spent in military service and will be treated as not having incurred a break in service. Immediately upon reemployment, the employee may, at the employee's election, make any or all employee contributions that the employee would have been eligible to make had the employee's employment not been interrupted by military service. Such contributions must be made within a period that begins with the employee's reemployment and that is not greater in duration than three times the length of the employee's military service. Employees will receive all associated agency match for such contributions.
- Voluntary supplemental life and health insurance plans will terminate the day the employee becomes active military. Converting to an individual insurance policy for dependents is voluntary. To exercise this conversion option, employee must directly contact insurance provider.

Reemployment

Upon an employee's prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending upon the employee's period of military service:

- Less than 91 days of military service
 - in a position that the employee would have attained if employment had not been interrupted by military service; or
 - if found not qualified for such position after reasonable efforts by the agency, in the position in which the employee had been employed prior to military service.
- More than 90 days and less than 5 years of military service

- in a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status and pay, the duties of which the employee is qualified to perform; or
- if proved not qualified after reasonable efforts by the agency, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
- Employee with a service-connected disability
 - if after reasonable accommodation efforts by the employer, an employee with a service-connected disability is not qualified for employment in the position he or she would have attained or in the position that he or she left, the employee will be employed in
 - any other position of similar nature, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the agency; or (ii) if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

Application for Reemployment

An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, submit an application for reemployment according to the following schedule:

- If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service) - the employee must report for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.
- If service is for 31 days or more but less than 181 days - the employee must submit an application for reemployment with Human Resources no later than 14 days following the completion of service.
- If service is over 180 days - the employee must submit an application for reemployment with Human Resources no later than 90 days following the completion of service.
- If the employee is hospitalized or convalescing from a service-connected injury - the employee must submit an application for reemployment with Human Resources no later than two years following completion of service.

Exceptions to Reemployment

In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if any of the following conditions exist:

- The agency's circumstances have so changed as to make reemployment impossible or unreasonable.
- Reemployment would pose an undue hardship upon INCA.
- The employee's employment prior to the military service was merely for a brief, nonrecurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.
- The employee did not receive an honorable discharge from military service.

General Benefits Upon Reemployment

Employees reemployed following military leave will receive benefits that the employee had at the beginning of the military leave, plus any additional benefits the employee would have attained,

with reasonable certainty, had the individual remained continuously employed. An employee's time spent on active military duty will be counted toward their eligibility for FMLA leave once they return to their job position. Additionally, upon reemployment, a covered employee will not be discharged except for cause for up to one year following reemployment.

Dissemination of Policy

The policy will be made available to all employees through the agency's website. The agency will educate and train employees and supervisors regarding the policy and any conduct that could constitute a violation of the policy.