

**CALIFORNIA INSTITUTE OF TECHNOLOGY**  
**STAFF PERSONNEL MEMORANDA**

<b>Subject:</b> <b>Military Leave and Military Spousal Leave</b>	<b>Memo No. 15-7</b> <b>Pages: 6</b> <b>Date: February 26, 2008</b>
<b>Approved by:</b> Julia M. McCallin, Associate Vice President for Human Resources	

(This supersedes Memo No. 15-7 dated 4/15/2002)

The Institute strongly supports employees who perform military training and active duty. Additionally, Caltech complies with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other applicable laws and regulations.

**1.0 Military Training Leave**

**1.1 Eligibility**

Employees other than those classified as temporary or occasional are eligible for Military Training Leave. Regular benefit-based employees who are members of the U.S. uniformed services including the armed forces reserves, the California or U.S. National Guard, the Coast Guard, Corps of the Public Health Service, and other persons designated by law, are eligible to take time off to participate in military training.

**1.2 Amount and Type of Payment**

Eligible employees will be paid the difference between their military pay and regular base wage or salary, plus any applicable shift premium or special pay allowances, for up to (10) workdays in each calendar year. Employees who are on leave for military training in excess of ten (10) workdays per year will be considered to be on Military Training Leave of absence without pay. They may use accrued, unused vacation to the extent they are eligible for such payments.

**1.3 Employee's Responsibilities**

Employees are responsible for notifying their supervisor and the Human Resources Department that a leave is required before leaving for military training unless it would be impossible, unreasonable or precluded by military necessity.

Employees must provide a leave request form when requesting a leave of (10) or more workdays and provide a copy of their official orders, or other available written documentation. Employees should obtain their supervisor's signature on the leave request form prior to forwarding it to the Human Resources Department.

## **1.4 Pay Reconciliation Process**

While on Military Training Leave, the employee will be paid her/his regular Institute base wage or salary as provided in Paragraph 1.2 above. However, the basis for such payment will be the difference, if any, between military pay while on active duty for training, and the employee's regular base wage or salary. An offset due to receipt of military pay will be exclusive of any allowance for quarters, subsistence, travel and/or per diem. Upon returning to work, the employee must provide a receipt for military training pay, which will be deducted from her/his regular pay in a subsequent pay period. Employees who do not present an itemized military training pay receipt within thirty days after returning from Military Training Leave may be required to reimburse the Institute for any Military Leave payments that have been made under this policy.

## **1.5 Return to Work Following Military Training Leave**

Employees who return to work from military training leave will return to the position they held prior to the leave or as required by law. Employees are to return to work as provided in Paragraph 5.0 below.

## **2.0 Active Duty Military Leave**

### **2.1 Eligibility**

Employees, other than those classified as temporary or occasional, who are called to active military duty in state or federal service are eligible for Active Duty Military Leave.

### **2.2 Maximum Length of Military Leave**

Employees called to active duty will be permitted a cumulative total of five (5) years of leave for such service.

### **2.3 Amount and Type of Payment**

Eligible employees may be paid the difference between their military pay and their regular base wage or salary, plus any applicable shift premium or special pay allowances, for up to forty-four (44) workdays when called to active duty.

After the forty-four (44) workdays have elapsed, an employee may choose to be paid their accrued vacation, if available, or they may elect to retain all or a portion of their accrued unused vacation time, and go on a Military Leave of Absence without pay.

### **2.4 Employee's Responsibilities**

Employees are responsible for notifying their supervisor and the Human Resources Department that a leave is required before leaving for active duty unless it would be impossible, unreasonable or precluded by military necessity.

Employees must provide a leave request form when requesting a leave of (10) or more workdays and provide a copy of their official orders or other available written documentation. Employees should obtain their supervisor's signature on the leave request form prior to forwarding it to the Human Resources Department.

## **2.5 Pay Reconciliation Process**

In the event that pay is not appropriately paid or withheld before or during any military leave period, reconciliation may be necessary to comply with the pay differential described above. Such payment will be based on the difference, if any, between military pay while on active duty, and the employee's regular base wage or salary. An offset due to receipt of military pay will be exclusive of any allowance for quarters, subsistence, travel and/or per diem. Upon returning to work, the employee must provide a receipt for military pay. Employees who do not present an itemized military pay receipt within thirty days after returning from active duty may be required to reimburse the Institute for any payments that have been made under this policy. Pay and benefit reconciliation shall be made in a subsequent pay period.

## **3.0 Holiday, Vacation, Sick Leave and Service Accrual**

- 3.1** An employee will be paid, for any Institute holiday that is observed while s/he is receiving pay for Military Training Leave or Active Duty Military Leave.
- 3.2** Vacation and sick leave accrual will continue while an employee is on paid Military Training Leave or Active Duty Military Leave. If applicable, employees who are reinstated following a military leave will have their vacation accrual rate adjusted to the rate they otherwise would have received had they not been on military leave.
- 3.3** Employees are not permitted to accrue or use sick leave during the unpaid portion of a military training or military leave for active duty service.
- 3.4** Institute service time will continue to accrue while an employee is on leave due to active military service.

## **4.0 Employee Benefits**

### **4.1 Insurance**

During the paid portion of the leave, all insurance benefits will continue as if the employee were actively at work. During an unpaid Military Leave, employees will have the option to continue group insurance plans in accordance with Institute policy and applicable law. The Benefits Office will contact the employee regarding benefits coverage, premium amounts and payment due dates. Continuation of coverage is contingent upon timely receipt of employee premiums. Any benefit coverage that is cancelled during the leave may be reinstated upon the employee's return to work.

### **4.2 Retirement**

During the paid portion of the leave, retirement contributions will continue as though the employee were actively at work. For employees on unpaid military leave, the Institute will provide employer-contributions to the TIAA-CREF plan in accordance with provisions of USERRA. Employees will also have the opportunity to make voluntary and/or mandatory contributions that could have been made during an unpaid military leave in accordance with USERRA provisions.

The Benefits Handbook as well as the Benefits Office may be consulted for additional detail about the status of employee benefits before, during or following a leave of absence.

## 5.0 Reinstatement Following Active Duty Military Leave

Employees returning from Active Duty Military Leave will be reinstated to the position that s/he would have attained had s/he not been absent for military service. In the event an employee is not qualified for that position after reasonable efforts by the Institute to qualify the employee, s/he will be reinstated to the position held prior to the leave provided the position still exists and the following criteria are met:

- 5.1 The employee must have held a full-time or part-time position at the commencement of military service.
- 5.2 The employee informed the Institute that they were called to military service as provided in this policy.
- 5.3 The employee has not been gone from work longer than the five-year statutory limit on cumulative periods of military service as defined by law.
- 5.4 The employee is released from active service under “honorable conditions.”
- 5.5 The employee notifies the Institute in a timely manner of his/her desire to return to work. Please refer to the chart below for additional detail regarding reinstatement rules. Employees who do not notify the Institute of their intent to return to work within the time specified below may be considered to have abandoned their position and to have voluntarily resigned.

Length of Military Duty Leave	Time to Apply for Reemployment
Less than 31 days	Must report to work by the start of the next regularly scheduled work period following duty (allowing for 8 hours after the travel time necessary for the individual to return home safely or as soon as possible if the delay is through no fault of the individual).
31-180 days	No later than 14 days after completing service or as soon as possible if the delay is through no fault of the individual.
181 or more days	No later than 90 days after completing service.

- 5.6 For employees with circumstances such as disability or leaves extending more than 90 days, additional legal requirements may apply to the employee’s reinstatement.

## 6.0 Termination

The Institute will reinstate employees who return from military service in compliance with USERRA and other applicable laws and regulations. Employees may not be reemployed if (a) circumstances at the Institute have changed so much that reemployment would be impossible or unreasonable (e.g., a layoff occurred during the employee's leave that would have included the employee) or if (b) reemployment would impose an undue hardship on the Institute. Contact Employee Relations for review and guidance.

## 7.0 Military Spousal Leave (MSL)

### 7.1 Policy

Regular, benefit based employees who have a spouse or domestic partner who is a qualified member of the Armed Forces, National Guard, or Reserves may take up to 10 workdays of leave during a qualified leave period.

This policy, to the extent it does not conflict with other applicable federal, state, or local laws, also covers Institute employees working on assignment outside of California.

### 7.2 Eligibility

An employee must meet all of the following criteria to be eligible for Military Spousal Leave:

- 7.2.1 Works an average of 20 hours per week.
- 7.2.2 Whose spouse or domestic partner is a qualified member of the Armed Forces, National Guard or Reserves who has been deployed to a scene of military conflict.
- 7.2.3 Who provides notice of intent for leave within two business days of receiving official notice that the qualified member will be on leave from deployment.

### 7.3 Definitions

- 7.3.1 *Qualified member* means a member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States; a member of the National Guard who has been deployed during a period of military conflict; or a member of the Reserves who has been deployed during a period of military conflict.
- 7.3.2 *Qualified leave period* means the period during which the qualified member is on leave from deployment during a period of military conflict.
- 7.3.3 *Military conflict* means a period of war declared by Congress or a deployment authorized under specified sections of the federal Armed Forces Code.

## **7.4 Procedures**

- 7.4.1 Employees are responsible for notifying their supervisor and the Human Resources Department that a leave is being requested within two business days of receiving official notice that the qualified member will be on leave from deployment.
- 7.4.2 Employee must provide written documentation to Human Resources prior to the leave, certifying that the qualified member will be on leave from deployment.
- 7.4.3 Leaves of absence of ten (10) workdays require the submittal of a Caltech Leave Request Form.
- 7.4.4 MSL is unpaid unless an employee wishes to use accrued vacation. Vacation and sick leave will not continue to accrue during the unpaid portion of leave.

## **8.0 Exceptions**

Exceptions to this policy require the written approval of the chief human resources officer or designee.