

	<p align="center"><b>Military Leave</b></p> <p align="right"><i>Adopted 02/01/1988</i></p>
<p align="center"><b>Last Revision Date: 06/26/2024</b></p>	<p align="center"><b>Policy No. 4.705</b></p>
<p align="center"><b>Last Enabling Resolution:</b></p> <p align="center"><b>138-2024/910-2024</b></p>	<p align="center"><b>Developer/Reviewer:</b></p> <p align="center"><b>Division of Human Resources</b></p>

**1. Purpose**

The purpose of this policy is to ensure compliance with the United States Uniformed Services Employment and Reemployment Rights Act (USERRA).

**2. Scope**

This policy applies to all employees who are absent from employment with Sedgwick County because of service in the United States uniformed services.

**3. Policy Statement**

An employee who leaves their job with Sedgwick County for service in the uniformed services of the United States, shall be entitled to reinstatement to the job vacated after discharge or release from active duty, if they meet the following eligibility criteria:

- A. If the position held was not temporary.
- B. Employee was not on active duty longer than five years. The five year total does not include exception categories defined in USERRA *Duration of Service* section 4312 (c).
- C. Employee must be discharged or released from active duty under honorable conditions.
- D. Employee must apply for reinstatement with Sedgwick County in accordance with USERRA *Reporting Back to Work* guidelines in section 4312(e).

**4. Definitions**

- A. **Uniformed Services** – Consists of Air Force, Army, Coast Guard, Marine Corps, Navy, Space Force or as a reserve of these services; Army National Guard or Air National Guard; Commissioned Corps of the Public Health Service; or any other category of persons designated by the President in a time of war or emergency.
- B. **Service in the Uniformed Services** – Performance of duty on a voluntary or involuntary basis in a uniformed service on active duty, active or initial active duty for training; inactive duty training; full-time National Guard duty; absences related to fitness for duty examinations; funeral honors duty by National Guard or Reserves; or duty or training performed by intermittent employees in the National Disaster Medical System.

- C. **USERRA Escalator Principle** – Per 20 CFR 1002.192 requires that that a returning service member be reemployed in the position the person would have occupied with reasonable certainty if the person had remained continuously employed, with full seniority. If an individual would have been promoted with reasonable certainty, the person would be entitled to that promotion. Additionally, if the position the employee previously held would have been subject to a reorganization or layoff, the employee may be reinstated to a lower position or subject to layoff.

## 5. Procedures

- A. An employee on military leave will receive no compensation from Sedgwick County.
- B. An employee leaving Sedgwick County for active military duty should notify the Division/Department or Elected/Appointed Official. The notice may be either written or oral and should include the approximate date the leave will commence and anticipated return date. Sedgwick County may not insist on knowing exactly when the employee will return to work. The notice may also be given to Sedgwick County by an appropriate officer of the branch of the military in which the employee will be serving. No notice is required if military necessity prevents giving notice or it is impossible or unreasonable.
- C. Employees may request time off prior to the start of the military leave in order to make preparations for their absence.
  - 1. Vacation used prior to the start of the military leave should be recorded on the timecard.
  - 2. Unpaid time off prior to the start of military leave will be subtracted from the number of days the employee has to report back to work at the conclusion of leave.
- D. For leaves of thirty one (31) days or more Division/Department Director or Elected/Appointed Official shall submit a Personnel Action Form (PAF) to the Division of Human Resources placing the employee on military leave.
- E. For employees enrolled in medical, dental and/or vision benefits, coverage will continue while on military leave unless the employee specifically requests to stop them by contacting the Division of Human Resources at [Benefits@sedgwick.gov](mailto:Benefits@sedgwick.gov).
  - 1. Employees will be required to pay the employee portion of the medical, dental and/or vision benefit premiums if they do not stop their benefits.
  - 2. Payment arrangements must be coordinated with the Division of Human Resources before leave begins.
  - 3. If the employee elects to stop medical, dental and/or vision, coverage will cease at the end of month the leave begins.
  - 4. Notification to stop medical, dental and/or vision benefits should be sent prior to military leave, but no later than thirty-one (31) days after the start of the leave. Employees will be responsible for all premiums incurred during the thirty-one (31) day period.
- F. KPERS basic group life insurance continues for employees on military leave for as long as they are on active duty. KP&F does not offer basic life insurance.

- G. KPERS and KP&F members may continue paying for their optional group life insurance by completing a KPERS Optional Group Life Insurance Continuation form (KPERS-79C) within sixty (60) days of the start of leave. Contact [Benefits@sedgwick.gov](mailto:Benefits@sedgwick.gov).
  - 1. Employees will pay the premium directly to the insurance company.
  - 2. Coverage may be continued for sixteen (16) months during military leave. After sixteen (16) months the employee must convert or port the coverage.
  - 3. If the employee returns within five (5) years, the coverage will be automatically reinstated.
- H. KPERS and KP&F do not provide disability coverage while on military leave.
- I. All supplemental benefit and voluntary deductions will cease during a military leave. Certain supplemental coverages may be continued through direct arrangement with the provider. It is the employee's responsibility to re-enroll in supplemental benefits or voluntary deductions upon return from leave.
- J. Active duty time counts toward eligibility for the Family and Medical Leave Act (FMLA).
- K. Contributions to the retirement fund will cease during a military leave. Military leave is not considered an interruption to the employee's continuous service status for pension purposes. In order for an employee to receive KPERS or KP&F service credit the employee should submit a copy of their DD214 to [Benefits@sedgwick.gov](mailto:Benefits@sedgwick.gov).
- L. If an employee is in the process of purchasing service credit with KPERS or KP&F and they have a military leave of thirty (30) days or more during the purchase period, they must reapply upon return.
- M. To qualify for USERRA protections, a service member must be available to return to work, and apply for reinstatement with Sedgwick County, in accordance with *USERRA Guide to the Uniformed Services Reporting Back to Work* guidelines in section 4312(e). The amount of time an employee has to reapply for work depends on how long they were on leave.
- N. When an employee returns from, or is not accepted for, service in the uniformed services and applies for reinstatement they will be re-employed consistent with the 'escalator principle' as defined by *USERRA 20 CFR 1002.192 Reemployment Rights and Benefits*.
- O. A service member returning from duty may request reinstatement by notifying the Division/Department or Office of Elected/Appointed Official of their desire to return to work. The Division/Department Director or Elected/Appointed Official shall submit a Personnel Action Form (PAF) returning the employee from leave.
- P. Employees returning to County employment shall have sick and vacation leave balances restored to the amounts available at the time military leave began.

- Q. Employees who serve more than one hundred and eighty (180) days cannot be separated without cause for twelve (12) months after the date of reemployment. Those who serve for thirty-one (31) to one hundred and eighty (180) days cannot be separated without cause for six (6) months after returning. Individuals who serve for thirty (30) days or less are not protected from separation without cause.
  
- R. An employee who leaves for a military leave during their twelve (12) month initial probation, or six (6) month transfer probation, must complete their probationary period upon return.
  
- S. Cell phone and vehicle allowances will be suspended during a military leave.