

May 6, 2015

MEMORANDUM

TO: State Board of Regents
FROM: David L. Buhler
SUBJECT: Revision to Policy R803, Students and Employees Called to Active Military Service

Issue

Regent Policy R803, *Students and Employees Called to Active Military Service*, has recently been reviewed by the Office of the Commissioner and USHE institutional personnel. This review is part of the continuing review of all Regent Policies.

Background

R803 has been revised in an effort to clarify and strengthen the policy and provide guidance and consistency for institutions.

Significant revisions to the policy include:

- Section 2, references have been updated;
- Section 3.1.1., has been updated to include language that would allow for another “mutually agreeable equitable solution in conformance with Regents and institutional policies” when a student is called to active duty military status. As an example, in some instances it is preferable for a service member to withdraw from a class and take a “W” – not allowed by current policy. Taking a “W” would allow the institution to work with the student on what funds would need to be paid back for that class if it does not look like the student will be returning to finish it in the foreseeable future.

Commissioner’s Recommendation

The Commissioner recommends that the Regents approve revisions to policy R803, *Students and Employees Called to Active Military Service*, effective immediately.

David L. Buhler
Commissioner of Higher Education

DLB/GLS/CRW
Attachment

R803, Students and Employees Called to Active Military Service¹

R803-1. Purpose: To provide for nondiscriminatory treatment of students and employees who are called to active duty military service.

R803-2. References

- 2.1. [38 U.S.C. §§ 4301-4335](#) (The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)), ~~United States Code at Chapter 43, Part III, Title 38.~~
- 2.2. Policy and Procedures [R831](#), Guidelines for Non-Faculty Staff Employment Grievances Policy

R803-3. Policy

3.1. Students Called to Active Military Status: Current students called to active military duty shall have the following treatment:

3.1.1. Alternatives for Coursework, Tuition and Fees: The student shall be allowed to drop his or her courses and receive a full refund of tuition and fees. In some cases the student may request and the faculty member may permit the student to take a final exam early and complete the course, or the faculty member may offer an incomplete grade designation to the student with an opportunity to complete the course later, [or another mutually agreeable equitable solution in conformance with Regents and institutional policies.](#)

3.1.2. Residence Halls: A student who lives in institutional residence halls shall be excused from his or her room and board contracts and receive a pro-rated refund of amounts paid.

3.2. Employees Called to Active Military Status: The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is intended to minimize the disadvantages to an individual that occur when that person needs to be absent from his or her civilian employment to serve in the country's uniformed services. USERRA potentially covers every individual in the country who serves in or has served in the uniformed services, and applies to all employers in the public and private sectors. Military personnel and veterans are entitled to the following protections both while in military service and when they return to their civilian positions:

3.2.1. Prompt Reinstatement: Veterans who were gone 30 days or less are entitled to their job back immediately. Those who were away longer must still be re-hired within a few days.

3.2.2. Status and Seniority: In most cases, veterans must be promptly reemployed in the job that they would have had, had they remained continuously employed (the so-called "escalator principle"). Generally speaking, this means that if peers received promotions and/or raises while the member was gone, the member does, too.

3.2.3. Health Benefits: Veterans and their families have two types of health benefits rights:

¹ Adopted May 31, 2002.

3.2.3.1. Health Insurance During Service: If requested, the institution as employer must continue to carry a veteran and his or her family on the institution's health plan for up to 30 days of service, at the normal cost.

3.2.3.2. Immediate Reinstatement of Health Benefits: A veteran and his or her family may choose to go back on the institution's health plan immediately when they return to their civilian jobs.

3.2.4. Pension Benefits: USERRA specifically guarantees to the veteran those pension plan benefits that accrued during military service, regardless of whether a plan is a defined benefit plan or a defined contribution plan.

3.2.5. Accommodations for Disabilities Incurred in Military Service: Employers must provide reasonable accommodation for disabilities incurred in military service, unless the employer can demonstrate undue hardship.

3.2.6. Protection against Discharge without Cause: A reemployed veteran enjoys protection from discharge without cause for a period after returning to work, depending on the length of his or her absence.

3.2.7. Protection against Discrimination: USERRA prohibits employment discrimination based on past, present, or future military obligations. This prohibition extends to most employment-based decisions including hiring, retention, promotion, reemployment, termination and benefits.