

APPENDIX D
MUHLENBERG COLLEGE

MILITARY LEAVE OF ABSENCE POLICY AND THE UNIFORMED SERVICES
EMPLOYMENT AND
REEMPLOYMENT RIGHTS ACT (USERRA)
(Effective April 22, 2010)

Policy

It is the policy of Muhlenberg College to comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and applicable state laws regarding military leave of absence. USERRA protects the reemployment rights and health care benefits of uniformed service members who leave their civilian jobs for military service.

A. Administration

The Vice President of Human Resources is responsible for the administration of this policy.

B. Eligibility

USERRA applies to people serving in the Army, Navy, Air Force, Coast Guard, and Marine Corps, including members of the Reserves and National Guard, commissioned corps of the Public Health Service, and service as a disaster-response appointee upon activation of the National Disaster Medical System. Service includes active duty, active and inactive duty for training, examination to determine fitness for duty, and funeral honors duty by National Guard or Reserve members.

Employees who return from military service are eligible for reemployment and continuation of health coverage if they meet the following criteria:

- The employee is absent from their position because of his or her service in the uniformed services;
- The employee must notify Human Resources at least 30 days in advance of the impending military service. This notice may be in writing or verbally. (Failure to provide advance notice is excused only if giving notice was impossible, unreasonable, or precluded by military necessity.);
- The employee's leave of absence for uniformed service does not exceed five years. (Under certain circumstances, employees who serve more than five years may still have reemployment rights.);
- The employee must return to work or apply for reemployment in a timely manner after the conclusion of military service.

Service members must have an existing employment relationship with Muhlenberg College to be eligible for USERRA continuation coverage. Service members who are dependents of active employees, or who are retirees, are not entitled to elect USERRA continuation coverage.

An employee loses his or her reemployment rights if discharged from military service for dishonorable or other conduct.

C. Compensation

Eligible employees who serve in the uniformed services will be placed on unpaid military leave of absence status for all days they are engaged in military service.

D. Continuation of Health Care Coverage

Under USERRA, employees who are members of *any uniformed service* and their covered dependents have the right to continue their existing Muhlenberg College health care coverage for up to 24 months during military leave. Employees and their covered dependents must elect continuation coverage within 60 days of giving notice of military service. If the employee leaves work for military service without electing continuation coverage, the employer may cancel the employee's health care coverage upon the employee's departure for military service (if the period of military service lasts for more than 30 days). Dependents must make the same decision as the employee regarding electing or waiving USERRA continuation coverage.

If the employee is on military duty for less than 31 days, Muhlenberg College will continue to pay our portion of the premium for health care coverage. The employee must pay his/her share of the premium for him/herself and covered dependents in order to keep the benefits active. This is the same amount the employee would have paid had they been at work instead of on leave.

If the employee is on military duty for more than 31 days, he/she may be required to pay up to 102% of the full premium (the employee's share plus the employer's share plus administrative costs). USERRA continuation coverage is available for up to 24 months.

The employee's premium payment obligation begins on the first day of the continuation coverage. The initial premium payment must be made within 45 days after the date of election. Subsequent payments are due monthly on the first day of each month within a 30-day grace period with each subsequent period. Continuation coverage will be cancelled if payments are not received by the end of the grace period.

When the employee returns to work following military leave, the employee and his/her eligible dependents' coverage under the group health plan will be reinstated without a waiting period.

If the employee does not return to work at the end of the military leave, the employee may be required to reimburse Muhlenberg College for the cost of the premiums paid by the college to maintain coverage during the military leave of absence.

In addition to the rights an employee has under USERRA, an employee and his/her covered dependents (if any) are also entitled under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to continue the health coverage they had (if any). The 24 months of continuation coverage under USERRA runs concurrently with continuation coverage provided under COBRA.

E. Returning to Work/Applying for Reemployment

Employees who return to work following military service are granted full reinstatement rights at no loss of seniority or benefits, as specified by USERRA. Employees must return to work (if service was for less than 31 days) or apply

for reemployment (if service was for more than 31 days) in a timely manner after the conclusion of military service. Reemployment will occur within two weeks of the employee's application for reemployment, when possible. Employees who do not return to work or notify Muhlenberg College of their intent to return to work will lose their right to continuation coverage under USERRA. The time required for returning to work depends on the period of uniformed service as follows:

- Less than 31 days, or any period if for purposes of an examination for fitness to perform uniformed service: The beginning of the first regularly scheduled work period on the day following the completion of service, after allowing for safe travel home and an eight-hour rest period. If this is impossible through no fault of the employee, as soon as is possible;
- More than 30 days but less than 181 days: An application for reemployment must be submitted (written or oral) within 14 days after completion of service. If that is unreasonable or impossible through no fault of the employee, on the first full day on which it is possible to do so;
- More than 180 days: An application for reemployment must be submitted (written or oral) within 90 days after completion of service;
- Any period if the employee was hospitalized for, or is recovering from, an injury or illness incurred or aggravated as a result of service: Report to work or submit an application for reemployment as above, except that time periods begin when the employee has recovered from the injury or illness rather than upon completion of service. The maximum period for recovery is limited to two years from completion of service, but may be extended if necessary.