

WORKPLACE
FLEXIBILITY 2010
GEORGETOWN LAW

A SAMPLING OF WORKPLACE FLEXIBILITY LAWS AND PROGRAMS FOR MILITARY PERSONNEL

A variety of laws, policies, and programs govern the availability and utilization of workplace flexibility in the military **as an employer** for both service members and civilians. This document provides examples of those laws, policies, and programs, categorized by the type of flexibility governed.¹

Flexible Work Arrangements and Career Maintenance and Reentry

- *Department of Defense (DoD) Telework Policy* – DoD “is committed to improving workforce efficiency while promoting quality of life for its employees and/or members ... The development, implementation, and active promotion of telework programs augment DoD's commitment to workforce efficiency and quality of life ... Telework should be used, as appropriate, to ensure continuity of operations during a national emergency or crisis.”²
- *DoD's Part-Time Career Employment Program* – “This program is intended to: ... Benefit [DoD] as an employer of choice by increasing productivity and job satisfaction while lowering turnover rates and absenteeism; ... Provide management with the flexibility to meet work requirements and fill shortages in various occupations; ... Provide an alternative to individuals who need or desire shorter working hours; To the maximum extent allowable, consistent within DoD resources and mission requirements components shall: Promote career part-time employment opportunities [and w]henever feasible, approve requests for career employees to change from full-time to part-time if it is determined that the effectiveness and efficiency of the Department will not suffer....”³
- *“Career Intermission” Pilot Programs* will be limited demonstration projects “to evaluate whether permitting inactivation from active duty and greater flexibility in career paths for members of the Armed Forces [of up to three years with health benefits, but without pay] will provide an effective means to enhance retention of members of the Armed Forces and the capacity of the [DoD] to respond to the personal and professional needs of individual members of the Armed Forces.”⁴ Both officers and enlisted members are eligible.
- *Vocational Rehabilitation and Employment Program* “provides effective vocational rehabilitation services to veterans with service-connected disabilities ... for a seamless transition from military service to ... suitable [post-service] employment.”⁵
- *Employer Support of the Guard and Reserve* “promote[s] cooperation and understanding between Reserve component members and their civilian employers and to assist in the resolution of conflicts arising from an employee's military commitment.”⁶
- *Military Spouse Resource Center* is an online tool to help military spouses gain training, placement opportunities, community resources, and local workforce development systems.⁷

¹ See <http://workplacelflexibility2010.org/definition> for a definition of workplace flexibility.

² U.S. DEP'T OF DEF., INSTR. 1035.01, *Telework Policy* (Apr. 3, 2007), available at http://www.cpms.osd.mil/ASSETS/AFE46C2CD535488F9D4484EEB6F5FB3C/dodi_1035_01.pdf; Memorandum for Secretaries of the Military Departments, Dep't of Def. (DoD) *Telework Policy & Guide* Dep't of Def. (Oct. 22, 2001), available at <http://www.cpms.osd.mil/telework.aspx>.

³ U.S. DEP'T OF DEF., CIVILIAN PERSONNEL MANUAL 1400.25-V340, *Other Than Full-Time Employment* (Jun. 26, 2006), available at <http://www.cpms.osd.mil/ASSETS/15A3D0092B4041B1A9E8770B3F1915E7/m1400340.pdf>.

⁴ Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No 110-417, § 533(a) (2008); see, e.g., Navy Personnel Command, *Career Intermission Program*, <http://www.npc.navy.mil/CommandSupport/TaskForceLifeWork/Career+Intermission+Program.htm>.

⁵ U.S. DEP'T OF VET. AFFAIRS, VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICE, http://www.vba.va.gov/bln/vre/emp_resources.htm.

⁶ About ESGR, <http://www.esgr.org/about.asp>; see, e.g., ESGR, *Tips for National Guard and Reserve Members* (Mar. 2008), available at http://www.esgr.org/files/factsheet/ESGR_Factsheet4_031108_Tips.pdf; ESGR, *Tips for Employers* (Mar. 2008), available at http://www.esgr.org/files/factsheet/TIPS_FOR_EMPLOYERS.PDF.

Flexible Work Arrangements and Career Maintenance and Reentry (cont.)

- *Veterans Employment Coordination Service* advances efforts for veterans “to successfully reenter the workforce and pursue productive civilian careers after military service.”⁸
- *Transition Assistance Program (TAP)* provides information “to ease the transition from military service to the civilian workforce and community.”⁹
- *Veterans’ Employment and Training Services (VETS)* “provide[s] veterans and transitioning service members with the resources and services to succeed in the 21st century workforce by maximizing their employment opportunities, protecting their employment rights and meeting labor-market demands with qualified veterans....”¹⁰

Time Off

- *DoD Policy on Leave and Liberty* -- “Experience has shown that vacations and short periods of rest from duty, as well as authorized absences to attend to emergency situations, provide benefits to morale and motivation that are essential for maintaining maximum effectiveness. Therefore, an aggressive leave program is an essential military requirement ... Implementing the Leave and Liberty Policy at all levels shall increase positive contributions to morale, level of performance, career motivation, and cost savings....”¹¹

For example, with authority of the unit Commander, service members and civilians on 12-month orders supporting Operation Iraqi Freedom are given one period of up to 15 days per 12-month period of rest and recuperation with free travel from Iraq to gateway airports.¹²

- *New Paternity Leave*, authorized in 2009, grants ten days of non-chargeable leave to a married active-duty service member “whose wife gives birth to a child.”¹³
- *Voluntary Leave Transfer Program* allows federal employees who sustain combat-related disabilities and are undergoing treatment for that disability to receive donated annual leave for up to five years without exhausting their own paid time off first.¹⁴
- The *Uniformed Services Employment and Reemployment Rights Act* and the *Family and Medical Leave Act* may provide eligible employees with some amount of job-protected time off. Additional information on these laws can be found in AN OVERVIEW OF USERRA AND THE FMLA’S PROVISIONS FOR MILITARY FAMILIES, *available at* www.workplaceflexibility2010.org.

⁷ This is a joint project of the DoD and the DoL’s Women’s Bureau, Employment and Training Administration, and Office of the Assistant Secretary for Policy. See Military Spouse Resource Center, <http://www.milspouse.org>.

⁸ U.S. DEP’T OF VET. AFFAIRS, VETERANS’ EMPLOYMENT COORDINATION SERVICES (VECS), <http://www.va.gov/vecs/index.asp>.

⁹ TAP is a partnership between the Departments of Defense, Veterans Affairs, Transportation and VETS at DoL. See TAP, <http://www.transitionassistanceprogram.com>.

¹⁰ U.S. DEP’T OF LAB., VETERANS’ EMPLOYMENT & TRAINING SERVICE (VETS), <http://www.dol.gov/vets>. For example, VETS runs <http://www.hirevetsfirst.gov>, a “comprehensive career website for hiring veterans of America’s military” and the Recovery and Employment Assistance Lifelines (REALifelines) program to help injured veterans reenter the workforce with “individualized job training, counseling and re-employment services to . . . help each veteran find the right career path to suit his or her special need.” News Release, VETS, U.S. Secretary of Labor Elaine L. Chao Launches First Phase of New Recovery and Employment Initiative for Injured and Wounded Veterans, *available at* <http://www.dol.gov/opa/media/press/vets/VETS20041947.htm>. See also Recovery & Employment Assistance Information Page, <http://www.dol.gov/vets/REALifelines/index.htm>.

¹¹ U.S. DEP’T OF DEF., DIR. 1327.5, Policy on Leave and Liberty (Nov. 29, 2004), *available at* <http://www.dtic.mil/whs/directives/corres/pdf/132705p.pdf>.

¹² U.S. DEP’T OF DEF., INSTR. 1327.6, Leave and Liberty Procedures (Apr. 22, 2005), *available at* <http://www.dtic.mil/whs/directives/corres/pdf/132706p.pdf>.

¹³ Pub. L. No 110-417, § 532 (2008) (codified at 10 U.S.C.A. § 701(j)(1)). (National Defense Authorization Act.)

¹⁴ 5 U.S.C. § 6333(b).