

P4084 MILITARY LEAVE

BOARD POLICY:

Employees will be allowed to take an unpaid leave of absence for military service in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994.

Administrative Implemental Procedures:

1. Employees must provide advance notice of military service to the district. Notice may be either written or oral. It may be provided by the employee or be an appropriate officer of the branch of the military in which the employee will be serving. Any supervisor who receives such advance notice shall immediately inform Human Resources of the employee's need for military leave.
2. The cumulative length of absence of an employee to serve in the uniformed services may not exceed five (5) years, except in the following circumstances:
 - a. Service required beyond five (5) years to complete an initial period of obligated service.
 - b. Service from which an employee, through no fault of the employee, is unable to obtain a release within the five (5) year period.
 - c. Required training for members of the National Guard and Reserves.
 - d. Service under an involuntary order to active duty, or to be retained on active duty, during a domestic emergency or national security related situations.
 - e. Service under an order to active duty, or to remain on active duty, during a war or national emergency declared by the President or Congress.
 - f. Active duty (other than for training) by volunteers supporting "operational missions" for which selective reservists have been ordered to active duty without their consent.
 - g. Federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion, or to execute the laws of the United States.
3. Employees will be expected to return to work after the conclusion of their military service based upon the following timeframes. Military service includes reasonable time for travel to and from the place of service.
 - a. An employee whose military service lasts from 1 to 30 days must report to the district by the beginning of the first regularly scheduled work day that would fall eight (8) hours after the employee returns home from military service.
 - b. An employee whose military service lasts from 31 to 180 days must make application for reemployment no later than 14 days after completion of the period of military service.
 - c. An employee whose military service lasts more than 180 days must make application for reemployment no later than 90 days after completion of the period of military service.
4. Employees will be reemployed as set forth below:
 - a. An employee serving from 1 to 90 days will be reemployed in the position the employee would have held had the person remained continuously employed, so long as the employee is qualified for the position or can become qualified after reasonable efforts by the supervisor to qualify the person.
 - b. An employee serving 91 days or more will be reemployed in (1) the position the employee would have held had the person been continuously employed, or (2) a position of equivalent seniority, status, and pay, so long as the employee is qualified for the

position or can become qualified after reasonable efforts to qualify the employee. If the employee cannot become qualified for either position, the employee will be reemployed in any other position of lesser status and pay that the employee is qualified to perform with full seniority.

- c. The district may request that an employee who is absent for a period of service of 31 days or more, document the period of military service to show that the application for reemployment was timely, the employee has not exceeded the five-year limitation, and the employee's character of service was honorable.
5. Benefits will be continued during a military leave according to applicable state and federal laws and regulations.
6. Upon reemployment, persons are entitled to all seniority related benefits as if they had remained continuously employed. Service members will be provided all rights and benefits not based on seniority to the extent that those rights and benefits are available to other employees on non-military leaves of absence, whether paid or unpaid. If there is a variation among different types of non-military leave, the most favored treatment will be accorded the service member.
7. If, prior to leaving for military service, an employee knowingly provides clear written notice of an intent not to return to work after military service, the employee waives entitlement to non-seniority leave-of-absence rights and benefits. The employee must be aware of the specific rights and benefits to be lost. If the employee lacks the awareness or is otherwise coerced, the waiver will be ineffective.
8. Notice of intent not to return to work can waive only non-seniority leave-of-absence rights and benefits. Service members cannot surrender other rights and benefits that a person would be entitled to under the law, particularly reemployment rights. Service members will be required to pay the employee cost, if any, of any funded benefits to the extent that other employees on leave-of-absence would be required to pay.
9. USD 259 will not discriminate or retaliate against any employee who is a member of, who applies to be a member of, performs, has performed, applies to perform or has an obligation to perform services in a uniformed service. In addition, USD 259 will not allow retaliation against any employee who testifies for or witnesses discrimination against uniformed service members.
10. Employees who have coverage under the district's health plan may elect to continue such coverage. The maximum period of coverage of employee and the employee's dependants shall be the lesser of (a) the 24 month period beginning on the date on which the person's absence begins or (2) the day after the date on which the person fails to apply for or return to a position of employment within the above timeframes. An employee who elects to continue health plan coverage may be required to pay not more than 102 percent of the full premium under the plan. An employee whose health plan was terminated by reason of service in the uniformed services may not be required to complete a waiting period for reinstatement of coverage following reemployment.

Administrative Responsibility: Human Resources

Latest Revision Date: June 2007

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