

MILITARY LEAVE POLICY

Employees are entitled to military leave under the Uniformed Services Employment and Re-Employment Act of 1994. Military leaves of absence are granted to personnel to fulfill required military obligations in the Armed Forces of the United States. Upon return to the District, they are assigned to positions with full privileges and without loss of professional or financial status, being allowed credit for their military service with respect to retirement and salary benefits.

DEFINITIONS

“Employee” means any person employed by a district, including a person who is a citizen, national, or permanent resident alien.

“Position” means employment held by a District employee at the time of entrance into military duty. The term “position” does not include temporary or casual employment.

“Military Duty,” (I.C. 65-502) also referred to as “service in the uniformed services,” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty.

Means the training and service performed by an inductee, enlistee, or reservist, or any entrant into the armed forces of the United States. The term “military duty” does not include active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only. (I.C. 65-502)

“Armed Forces” means the United States Army, Navy, Marine Corps, Coast Guard, Air Force, and their auxiliaries.

“Valid Military Orders” means all written or verbal orders issued by a competent military authority. The District may request a copy of the official, written military orders for an employee after the employee has been on military leave for more than thirty (30) days. The written military orders will be used to establish the employee’s rights. In the event the employee is unable to provide satisfactory documentation for military service in excess of thirty (30) days, the District will promptly reinstate the employee pending the availability of written orders.

“Notice” means any written or verbal advance notification by an employee to the district of an obligation or intention to perform service in the uniformed services.

“Veteran” (I.C. 65-502) for the purposes of Idaho law provisions, means any honorably discharged person who has served in the active service of the armed forces of the United States during any

period of war recognized by the United States Department of Veterans Affairs and was discharged or separated under honorable conditions after one-hundred and eighty (180) days of continuous active duty, or was separated or discharged from the armed forces earlier than ninety (90) days under honorable conditions because of a service-connected disability, or during any period of war recognized by the United States Department of Veterans Affairs, for the purpose of awarding federal veterans benefits.

“Uniformed services” means the Armed Forces (active and reserve components of the United States Army, Navy, Marine Corps, Coast Guard, and Air Force); the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President of the United States in time of war or national emergency.

MILITARY ORDERS AND DISTRICT BENEFITS

A notice containing the rights and benefits available to employees on military duty under the Uniform Service Employment and Reemployment Act (Veterans Benefits Improvement Act of 2004) shall be posted in the district office or other location where such notices are customarily placed.

Any employee who begins military duty pursuant to valid military orders will be placed on leave without pay, except to the extent an employee elects to use accrued vacation or personal leave.

An employee called to military duty may elect to continue group health care coverage for the employee and dependents for the lesser of:

1. The eighteen (18) month period beginning on the date the leave begins;
2. A period of twenty-four (24) months beginning on the date the leave begins, for those employees called to military duty who make such election to continue coverage on or after December 10, 2004; or
3. The day after the date on which the person fails to apply for or return to a position of employment with the district.

The employee may be required to pay not more than one hundred two percent (102%) of the full premium of the plan, except in the case the military duty was less than thirty-one (31) days, in which case the employee shall only be responsible for the employee’s share of the coverage.

Any employee called to military duty and reemployed by the district after the military duty ceased may elect to make contributions to any employer pension benefit plan, not to exceed the amount the employee would have been permitted or required to contribute had the employee remained continuously employed by this district throughout the period of military duty, pursuant to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Chapter 43. Military duty will not be counted as time away from the district for retirement purposes.

RESERVIST TRAINING:

1. The District will determine the number of days the employee is to be gone for training.
2. The employee will elect to use or not to use his/her personal leave days.
3. If the employee elects to take the remainder of the leave days as unpaid leave, he/she will begin receiving full pay upon his/her return to work; or
4. If the employee elects to continue receiving full pay from the District during training, the District will determine the normal daily rate of pay, subtract the leave days from the employee's regular work year, and pay the employee at a reduced rate throughout the remainder of the school year.
5. Medical benefits remain in effect.

REEMPLOYMENT RIGHTS

Whenever an employee leaves his/her position, whether voluntarily or involuntarily, to perform military duty, and is relieved or discharged from such duty under honorable conditions, that individual may make application for reemployment as follows:

1. Leaves his or her position, whether voluntarily or involuntarily, to perform military duty;
2. Has given the district prior notice of the military duty, unless prior notice is precluded by military necessity or is otherwise impossible or unreasonable;
3. Is relieved or discharged from such duty under honorable conditions; and
4. The employee makes application for reemployment as follows:
5.
 - a. For military duty which lasted no more than thirty (30) days, the employee must be available to begin work at the first regularly scheduled work day or eight (8) hours after the end of the military duty, plus reasonable commuting time from the military duty state to home.
 - b. For military duty that lasted between thirty-one (31) and one hundred eighty (180) days, the employee's application for reinstatement must be submitted to the district not later than fourteen (14) days after completion of military duty.
 - c. For military duty that lasted between one hundred eighty-one (181) days and up to five (5) years, the employee's application for reinstatement must be submitted not later than ninety (90) days after he or she is relieved from military duty.
 - (1) The timelines set forth above may be extended for up to two (2) years in the event the employee is convalescing due to a disability incurred or aggravated during military service.

- (2) The two-year period shall be extended by the minimum time required to accommodate circumstances beyond the employee's control that make reporting within the ninety (90) days impossible or unreasonable.

An employee who fails to report or apply for employment or reemployment within the appropriate time period specified above shall not automatically forfeit the employee's entitlement to the rights and benefits but shall be subject to the conduct rules, established policy, and general practices of the district pertaining to explanations and discipline with respect to absence from scheduled work.

The cumulative length of the current absence and of all previous absences from employment with the district for military duty may not exceed five (5) years, unless an exception applies.

Employees who meet the above criteria for reemployment will be given the reemployment positions as required by the Uniformed Services Employment and Reemployment Rights Act 38 U.S.C. Chapter 43.

Any employee who is restored to a former position will be considered to have been on leave of absence during his or her period of military duty and will not be discharged from that position without cause as follows:

1. Within one (1) year after the date of such reemployment, if the person's period of military duty before the reemployment was more than one hundred eighty (180) days; or
2. Within one hundred eighty (180) days after the date of reemployment, if the person's period of military duty before the reemployment was more than thirty (30) days but less than one hundred eighty-one (181) days.

An employee will not be reinstated if the district is able to show that:

1. The district's circumstances have so changed as to make reemployment impossible or unreasonable;
2. Reemployment would impose an undue hardship (as defined by federal law) on the district;
3. The prior employment with the district was for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period;
4. Any reemployment is impossible or unreasonable because of a change in the district's circumstances; or
5. Any accommodation, training, or effort would impose an undue hardship on the district.

VETERAN EMPLOYMENT PREFERENCE: (I.C. 65-503A)

Preference of employment will be given to qualified veterans who are residents of the state of Idaho at the time of application for work or employment, and who served on active duty in the armed forces of the United States as follows:

1. The veteran was in the armed forces for a period of more than one hundred-eighty (180) days and was discharged under honorable conditions; or
2. The veteran was discharged or released under honorable conditions due to a disability incurred or aggravated in the line of duty.
3. The veteran was in the armed forces during any period of war recognized by the United States Department of Veterans Affairs, for the purpose of awarding federal veterans benefits.

In order to receive preferential treatment, the ~~war~~ veteran's application must be submitted within one hundred-twenty (120) days of his/her separation from the armed forces or related hospitalization.

A disabled veteran may file an application at any time up until a selection has been made for any position for which a register is then maintained as a source for future job openings, or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. If a register is not used as a part of the selection process, a disabled veteran may file an application after the closing date, but such application will only be considered if a selection has not been made and the selection process is still active.

The employment preference for veterans is on one-time preference for initial hire only. No veteran will be discharged except for inefficiency, incompetence, insubordination, or violation of work agreements. In any reduction in force, veterans will be given preference for retention.



LEGAL REFERENCE:

Uniformed Services Employment and Reemployment Rights Act
38 USC Chapter 43, amended by the Veterans Benefits Improvement Act of 2004 (PL 108-454,
§ 201(a))
Idaho Code, Title 65, *et. seq.*

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