

Teton School District No. 401

PERSONNEL

5470

Leaves of Absence - Military Leave

General Policy

All District employees, other than those who are employed on a temporary basis, are entitled to military leave of absence when ordered to active duty for training as members of the Idaho National Guard or any component of the U.S. Armed Forces. Employees who volunteer, are drafted, or are ordered to extended active duty with any component of the U.S. Armed Forces shall be entitled to reinstatement to their former positions or comparable positions if the right is exercised in a timely manner as noted below.

Notice to District

All employees should provide either written or oral notice of upcoming military training to the District as soon as reasonably practical. The employee or an appropriate officer of the branch of military in which the employee will serve may provide the notice. Employees who are ordered for such duty shall provide one copy of their orders to the Superintendent. Notice shall include date of departure and date of return for purposes of military training ninety (90) days prior to the date of departure.

Military Leave for Training or Short Term Duty

Employees who are required to attend annual training or special active duty for training shall not suffer any loss of salary, seniority or efficiency rating during the first fifteen (15) days of such absence in any calendar year. Leave will be without loss of benefits.

Completion of Military Training

Upon completion of military training, employee shall give evidence of the satisfactory completion of such training immediately thereafter. Employee shall be restored to his or her previous or similar position with the same status, pay, vacation leave, sick leave, bonus, advancement, and seniority. Such seniority shall continue to accrue during such period of absence.

Benefits for Uniformed Service Personnel On Active Duty

Salary: **(Note: Federal law does not require an employer to pay the salary of an employee on military leave.)**

Option A: The Teton School District will **not** pay employee's salary while the employee is on active military duty.

Pension and Retirement Plans. Pension and retirement plans are considered a benefit to which reinstated employees are entitled. Any normal contributions will continue to be made for service members who are absent for 90 days or fewer. If the employee has been absent for military service for 91 days or more, the District may elect to delay making retroactive pension contributions until the employee submits satisfactory reemployment documentation.

Medical Insurance. Health benefits will be offered to the extent they are available to other employees on leave. An employee performing military service for 30 days or fewer is not required to pay more than the normal employee share of any health premium. If the employee's military service is for 31 days to 12 months, the health plan will offer continuous coverage. An employee on military leave may elect to continue health care coverage through the District for up to 12 months after the military leave begins or for the period of military service, whichever is shorter. The District's obligation to provide health benefits ends once an employee's military leave exceeds 12 months. When the employee is reinstated, a waiting period or exclusion cannot be imposed if health coverage would have been provided to the employee had he or she not been absent for military service.

Reporting to District Once Military Leave is Complete

The standard military service length and reporting times are:

- *1 to 30 days of military service:* employee reports to the District by the beginning of the first scheduled work day that falls eight hours after the end of the last calendar day of military service.
- *31 to 180 days of military service:* employee must submit an application for reemployment no later than 14 days after completion of service in the armed forces. If the 14th day falls on a day when the District's offices are not open or available to accept a reemployment application, the time extends to the next business day.
- *181 days or more of military service:* employee must submit an application for reemployment no later than 90 days after completion of military service. If the 90th day falls on a day when the employee's offices are not open or available to accept a reemployment application, the time extends to the next business day.
 - 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.

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.

Legal Reference: I.C. § 46-407 Militia and Military Affairs / Reemployment Rights
I.C. § 46-224 Militia and Military Affairs / Entitled to Restoration of Position After Leave of Absence for Military Training
I.C. § 46-225 Militia and Military Affairs / Vacation, Sick Leave, Bonus and Advancement Unaffected by Leave
USERRA, Title 38, Part 3, Chapter 43 U.S. Code

Policy History:

Adopted on: August 10, 2009

Revised on: November 11, 2013