



4510.14: UNIFORM SERVICE LEAVE (MILITARY LEAVE OF ABSENCE)

I. Leave of absence will be granted to employees of the District who are absent from employment by reason of service in the uniformed services as provided by law.

II. Eligibility. The following employees are eligible for service leave:

A. Employees who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve are entitled to a leave of absence, without loss of pay, on all days during which they are employed under the orders or authorization of competent authority in the active service of the State of Nebraska or of the United States. Employees who normally work or are normally scheduled to work one hundred twenty (120) hours or more in three (3) consecutive weeks shall receive a military leave of absence of one hundred twenty (120) hours each calendar year. Members who normally work or are normally scheduled to work less than one hundred twenty (120) hours in three (3) consecutive weeks shall receive a military leave of absence each calendar year equal to the number of hours they normally work or normally would be scheduled to work whichever is greater, in three consecutive weeks. Such military leave of absence may be taken in hourly increments and shall be in addition to the regular annual leave of the persons named in this Rule.

B. If the Governor declares that a state of emergency exists, any persons named above who are ordered to active service of the state shall receive a state of emergency leave of absence until such person is released from active service by competent authority. During a state of emergency leave of absence, the affected employee shall receive his/her normal salary or compensation minus the state active duty base pay he or she receives in active service of State.

III. Return to Employment. Upon an honorable discharge from active service, such employee shall be entitled to a return to the same or comparable position as provided by law; provided, however, that the employee is still qualified to perform the duties of the employee's former position, and the employee makes a timely application to return to employment as follows:

A. Service of 1 to 30 days. The employee must report to his or her employer not later than the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight (8) hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence. If, due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible.

B. Fitness Exam. The time limit for reporting back to work for a person who is absent from work in order to take a fitness-for-service examination is the same as the one above for persons who are absent for 1 to 30 days.

C. Service of 31 to 180 days. In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, an application for re-employment must be submitted to the District no later than 14 days after completion of the person's service. If submission of a timely application is

impossible or unreasonable through no fault of the person, the application must be submitted the next first full calendar day when submission of such application becomes possible.

D. Service of 181 days or more. In the case of a person whose period of service in the uniformed services was for more than 180 days, an application for re-employment must be submitted to the District no later than 90 days after the completion of the person's service.

E. If such employee is not qualified to perform the duties of such position upon the employee's return by reason of a disability sustained during the training or service but is qualified to perform the duties of any other positions, the employee shall be restored to such other positions, the duties of which the employee is qualified to perform, as will provide the employee with the same seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances of the employee's case. Such person shall not be discharged without justifiable cause within one (1) year after reinstatement.

F. Any such employee submitting an application for re-employment shall, upon request, provide the District documentation to establish that the person's application is timely and that the person is entitled to the benefits under this Rule.

IV. Preservation of Benefits. Absence for any of the reasons stated above shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of the employee's employment normally to be anticipated in the employee's particular position.

V. Re-Employment. A person whose military service lasted 1 to 90 days shall be promptly re-employed:

A. In the job the person would have held had the person remained continuously employed, so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer to qualify their person; or in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position the person would have held after reasonable efforts by the employer to qualify the person.

B. If the employee cannot become qualified for either position described above, even after reasonable employer efforts, the person is to be re- employed in a position that is the nearest approximation to the positions described above which the person is able to perform, with full seniority.

C. A person whose military service lasted 91 or more days shall be promptly re-employed in the job the person would have held had the person remained continuously employed, or a position of like seniority status and pay, so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer to qualify the person; or, in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority,

status, and pay the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of the position the person would have held after reasonable efforts by the employer to qualify the person. If the employee cannot become qualified for either position, then in any other position of lesser status and pay, but that most nearly approximates the above positions (in that order) that the employee is qualified to perform with full seniority.

VI. Definitions.

A. The term “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, and 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.

B. The term “uniformed services” means the Armed Forces, 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 in time of war or national emergency.

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Reaffirmed

November 6, 2017

Legal Reference

Neb. Rev. Stat §§ 55-160, 55-161, 38 U.S.C §4301 et seq