

**POLICY TITLE: Military Reserve & National Guard Duty**

**POLICY NO:**

**544.50**

**Minidoka County Joint School District # 331**

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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~~ designated representative 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. If employee is given less than 90 days notice from the military, the employee will provide notice to the district within 48 hours of alert.

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#### **Military Leave for Training or Short Term Duty**

Employees who are required to attend ~~annual training or special active duty for training~~ active duty, inactive-duty training, funeral honors duty, or field or coast defense training as a Reserve of the armed forces or member of the National Guard shall not suffer any loss of salary, seniority or efficiency rating during the first fifteen (15) work days of such absence in any ~~calendar~~ fiscal year. Leave will be without loss of benefits.

In the case of a part-time employee, military leave for training or short-term duty shall accrue at a rate of 15 days per year multiplied by a percentage determined by dividing by 40 the number of hours in the regularly scheduled workweek of that employee during that fiscal year. Unused leave shall accumulate until it totals 15 days

#### **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.

\*(Note: Federal law does not require an employer to pay the salary of an employee on military leave except as specified in "Military Leave for Training or Short Term Duty" above.)\*

#### **Benefits for Uniformed Service Personnel On Active Duty**

The Minidoka County 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 ~~18~~ 24 months, the health plan will offer continuous coverage under COBRA Law. An employee on military leave may elect to continue health care coverage through the District for up to ~~18~~ 24 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 ~~18~~ 24 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. *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.
2. *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 14<sup>th</sup> 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.
3. *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 90<sup>th</sup> 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.
4. *Cases of disability:* employees who are hospitalized or recovering from a disability that was incurred or aggravated during the period of military service leave have up to two years to submit an application for reemployment.

There is an exception to these guidelines for those employees who, through no fault of their own, find themselves in a situation that makes it impossible or unreasonable to meet the required timetables. In those cases, the employee must return to work as soon as possible.

**Disqualification from Returning to Work**

There are four conditions that disqualify an employee from exercising his or her right to reemployment after military service:

1. A dishonorable or bad conduct discharge
2. Separation from the service under “other than honorable conditions”
3. A commissioned officer’s dismissal via court martial or by order of the President

- 4. When a service member has been dropped from the rolls for being absent without authority or for civilian imprisonment

**Reinstatement to Positions After Extended Duty**

Employees who volunteer, are drafted, or called to active duty for extended periods will be placed on “Military Leave of Absence” upon written application and be entitled to reinstatement to their former or similar positions upon their return and under the following conditions:

- 1. They must not have remained on active duty beyond their first opportunity for honorable or general release.
- 2. They must report to claim reinstatement within the timelines specified under “Reporting to District Once Military Leave is Complete” above as set out above in the section entitled “Reporting to District Once Military Leave is Complete.”

After an employee has been absent for 31 days or more of military service, the District may ask the employee or the employee’s military unit for documentation showing that:

- 1. The employee submitted a timely application for reemployment;
- 2. The employee’s length of military service has not exceeded the five-year limitation; and
- 3. The employee’s separation from the military service meets the requirement for reemployment.

As a general rule, employees returning from military service must be reemployed in the job that they previously held, or would have attained had they not been absent for military service. If the employee was disabled while on military duty, or a disability is aggravated by military service, the District will make reasonable efforts to accommodate the disability



**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
- [38 USC §§ 4301](#) [Uniformed Services Employment and Reemployed Act \(USERRA\)](#)
- [5 USD § 6323](#) [Military Leave: Reserves and National Guardsmen](#)
- USERRA, Title 38, Part 3, Chapter 43 U.S. Code

**ADOPTED: Original Adoption Date Unknown**

**RATIFIED: August 21, 2006**

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