

Personnel

MILITARY LEAVE

SR 4615.01

Purpose:To provide military leave accounting for employees on active duty.

Timeline:The employee must have been a County Office employee for not less than one (1) year prior to the date on which the military leave begins.

PROCEDURE:

Purposes of Leave

Military leave shall be granted to any County Office employee who:

1. is a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia who, on a temporary basis, is engaged in active military training, encampment, naval cruises, special exercises, or like activity, provided that: (Military and Veterans Code 395, 395301)
 - a. the ordered duty does not exceed 180 calendar days, including time involved in going to and returning from such duty; and
 - b. the employee has been a County Office employee for at least one year immediately prior to the day the military leave begins.
2. has served the County Office for at least one year and is ordered, on other than a temporary basis, into active military duty as a member of the reserve corps of the United States Armed Forces, National Guard of Naval Militia, or who otherwise is inducted, enlisted, entered, ordered or called into active duty as a member of the Armed Forces; (Military and Veterans Code 395.02)
3. is a member of the National Guard, however long employed by the County Office, who is engaged in military or naval duty during a state of extreme emergency as declared by the Governor or during such time as the National Guard may be on active duty in situations described in Military and Veterans Code 146, provided that the leave does not exceed the duration of the emergency; (Military and Veterans Code 395.05)
4. is a member of the reserve corps of the United States Armed Forces, National Guard or Naval Militia who is engaged in temporary inactive duty training under the conditions described in items #1a-b above; (Military and Veterans Code 395)
5. is a member of the State Military Reserve who is engaged in temporary military training, drills, unit training assemblies or similar inactive duty, not to exceed 15 calendar days each year; (Military and Veterans Code 395.9)
6. enters active military service in the United States or State of California, including a uniformed auxiliary of any branch of military service, the United States Merchant Marines, or full-time paid service of the American Red Cross, during any period of war or national emergency. (Education Code 44800; Military and Veterans Code 395.2)

An employees cumulative length of the absence and of all previous military leave shall not exceed five (5) years, excluding those training and service obligations specified in

38 USC 4312. (38 USC 4312)

Notification of Leave

An employee who needs to be absent from the County Office to fulfill military service shall provide advance written or verbal notice to the County Superintendent or designee, unless the giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable. (38 USC 4312)

Compensation During Leave

An employee shall receive her/his salary for the first thirty (30) calendar days of an absence for the purposes described in items #1-3 above. A National Guard member is entitled to receive her/his salary for the first thirty (30) days regardless of length of employment. (Military and Veterans Code 395, 395.01, 395.02, 395.05, 395.07)

The 30-day pay entitlement is the maximum allowance which shall be paid for any one military leave or during any one fiscal year. (Military and Veterans Code 395.03)

For classified employees, 30 days compensation shall be one month's salary. For certificated employees, 30 days compensation shall be one-tenth of the employee's annual salary. (Education Code 45059)

Teachers shall not be entitled to compensation during non-teaching, non-paying months of the year.

During the period of military leave, an employee may, but is not required to, use any vacation or similar paid leave accrued before the commencement of the military leave. (38 USC 4316)

Benefits/Employment Status

Absence for military leave shall not affect the classification of any certificated employee. In the case of a probationary employee, the period of such absence shall not count as part of the service required to obtain permanent status, but shall not be construed as a break in the continuity of service for any purpose. (Education Code 44800)

An employee on temporary military leave, including an employee in the National Guard, shall continue to accrue the same vacation, sick leave or holiday privileges for up to a maximum period of 180 days, provided s/he has been employed by the County Office for at least one year immediately prior to beginning the leave. (Military and Veterans Code 395)

An employee on military leave for active duty shall not accrue sick leave or vacation leave. However, an employee who is a National Guard member on active duty shall

accrue vacation and holiday privileges, but not sick leave, for the first 30 days of active service, regardless of her/his length of service with the County Office. (Military and Veterans Code 395.1, 395.05)

An employee on military leave may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave are so required. (38 USC 4316)

An employee may elect to continue her/his health coverage during the leave. The maximum period of coverage for the employee and her/his dependents shall be either 18 months from the beginning of the leave or until the day after the employee fails to apply for or return to employment, whichever is less. An employee absent for 30 days or fewer shall not be required to pay more than the employee share for such coverage. An employee absent for 31 days or more may be required to pay not more than 102% of the full premium under the plan. (38 USC 4317)

Pension Plan Service Credit

Pension plan service credit and vesting shall continue during an employees military leave as though no break in service has occurred. Payment of employer and employee contributions shall be made in accordance with law for members of the State Teachers Retirement System (STRS) and Public Employees Retirement System (PERS). (Education Code 22850-22856)

Reinstatement Rights

At the conclusion of the military duty, an employee shall be entitled to return to the position held at the beginning of the military leave, at the salary to which s/he would otherwise have been entitled. (Education Code 4800; Military and Veterans Code 395, 395.2)

An employee who performs active military duty in time of war or national emergency has a right to return to her/his position within six (6) months of an honorable discharge or placement in inactive duty. Reemployment rights shall not be extended to any such employee who fails to return within twelve (12) months after the first date upon which s/he could terminate or could cause to be terminated her/his active service. (Education Code 44800; Military and Veterans Code 395.1)

When an employee has been on military leave for reasons other than war or national emergency, the time frame for reinstatement shall depend on the length of military service as follows: (38 USC 4312)

1. for a leave of 30 days or fewer, the employee shall report for duty no later than the beginning of the first full calendar day following the completion of military service;
2. for a leave of 31 to 180 days, the employee shall complete an application for

- reemployment not later than 14 days after the completion of military service;
3. for a leave of more than 180 days, the employee shall submit an application for reemployment within 90 days after the completion of military service.

An employee failing to apply for reemployment within the appropriate period does not automatically forfeit her/his rights, but shall be subject to the County Superintendents rules governing unexcused absences. (38 USC 4312)

The employee shall be promptly reinstated upon request. (38 USC 4313)

If the employees previous position has been abolished, s/he shall be reinstated in a position of like seniority, status and pay if such position exists, or to a comparable vacant position for which s/he is qualified. (Military and Veterans Code 395, 395.1)

An employee may not be reemployed if the County Offices circumstances have so changed as to make such reemployment impossible or unreasonable; if the accommodation, training or effort described in 38 USC 4313(a)(3), (a)(4), or (b)(2)(B) would impose an undue hardship on the County Office; or if the employees position was for a brief, non-recurrent period and there was no reasonable expectation that such employment will continue indefinitely or for a significant period. (38 USC 4312)

MENDOCINO COUNTY OFFICE OF EDUCATION

Date Adopted: 07/15/2003

Date Revised: 09/01/2003