

## **Military Leave**

### **Eligibility**

Employees, other than temporary, who enlist in the military will be granted leave for initial training, periodic training (weekend duty, summer camp, etc) and if called to active duty.

Military leave without loss of pay is available for a maximum of fifteen (15) calendar days during each calendar year in order that the person may take part in active training duty in such manner and at such time as he/she may be ordered to active training duty. Additional military leave may be charged against vacation leave. RCW 38.40.060

The cumulative period of military service while employed by the ESD must not exceed five years, with the exception of time served in the event of a war or national emergency.

Employees, upon finding it necessary to be absent from their assigned duties for military active training, will notify their immediate supervisor at the earliest possible time prior to the time at which they normally report to work.

### **Reinstatement of Employment**

Employees who are required to take leave for military duty will have the right to return to work within applicable laws.

Employees returning from military leave qualify for re-employment rights if they meet the following criteria, have not served more than five years, have been honorably discharged, and notify the ESD in a timely manner as follows:

1. For periods of military service up to 30 consecutive days, the employee must report back to work on the first regularly scheduled work day following the completion of the period of service and safe transportation home, plus an 8-hour rest period.
2. For periods of military service of 31-180 days the employee is to submit an oral or written application for re-employment not later than 14 days after completion of the period of service.
3. For periods of military service of 181 days or more, the employee must submit application for re-employment not later than 90 days after completion of the period of service.

Employees returning from military leave have the right to continued employment for up to one year, except for termination for cause.

Employees returning from military leave retain seniority as if the employee had remained continuously employed.

### **Re-employment Rights**

Service of 1 to 90 days:

The ESD must reinstate the veteran in the job s/he would have held had s/he remained continuously employed.

Service of 91 or more days:

The ESD must reinstate the veteran in the job s/he would have held absent military leave or to a job with similar seniority, status and pay, as long as s/he is qualified to perform that job.

### **Protection of Benefits**

For periods of military service up to 30 days, the employee will pay the established contribution for health benefits.

For 31 days to 18 months of military service, the employee may retain coverage by paying the entire premium under COBRA continuation coverage provisions. After 18 months, the ESD is not required to continue to provide health insurance coverage. Health insurance coverage will immediately be reinstated upon the employee's return to work.

Employees who are required to take leave for military duty will have the right to work within applicable laws.

### **Military Deployment Leave – Spouse**

The ESD will allow an employee who is the spouse of a military member of the U.S. Armed Forces, National Guard, or Reserves to take up to fifteen (15) days of unpaid leave during a period of military conflict when:

1. The military spouse is on leave from a deployment; or
2. Prior to deployment once the military spouse receives official notification of an impending call or order to active duty.

The employee must work an average of twenty hours or more each week for the ESD.

The employee must provide the ESD notice of intent to take leave within five business days of the call to active duty or notice of leave from deployment.

### **Definitions**

**Military** –Applies to all types of military “uniformed services.” This includes the Armed Forces, the Army National Guard, and the Air National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in the case of a war or emergency (38USC section 4303(16)).

**Service-** means the performance of duty on a voluntary or involuntary basis in a uniformed service that includes active duty, active duty for training, inactive duty training, full-time National Guard duty, and time an employee may be absent for a fitness-for-duty service exam.

### **Legal References:**

*RCW 38.40.060 Military leave for public employees.  
Chapter 49.77 RCW Military family leave act.  
Chapter 73.16 RCW Employment and reemployment.  
AGO 1961No. 81 Public employees – State and municipal employees – Military leave – Reserve meetings.  
38 USC 4301-4335 Uniformed services employment and reemployment rights act.*

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