

**WINNER SCHOOL DISTRICT 59-2
OFFICIAL SCHOOL BOARD POLICY**



MILITARY LEAVE OF ABSENCE

Employees are entitled to military leave under the Uniformed Services Employment and Reemployment Act of 1994.

Reemployment rights extend to persons who have been absent from work because of "service in the uniformed services." The uniformed services consist of the following military branches: Army, Navy, Marine Corps, Air Force or Coast Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve or Coast Guard Reserve, Army National Guard or Air National Guard, or Commissioned corps of the Public Health Service. Any other category of persons designated by the President in time of war or emergency.

"Service" in the uniformed services means duty on a voluntary or involuntary basis in a uniformed service, including:

- Active duty,
- Active duty for training,
- Initial active duty for training,
- Inactive duty training,
- Full-time National Guard duty.
- Absence from work for an examination to determine a person's fitness for any of the above types of duty.

The employee may be absent for up to five (5) years for military duty and retain reemployment rights. There are, however, exceptions that can exceed the five (5) year limit. Reemployment protection does not depend on the timing, frequency, duration or nature of an individual's service. The GARID law enhances protections for disabled veterans including a requirement to provide reasonable accommodations and up to two (2) years to return to work if convalescing from injuries received during service or training.

Employment Protection

The returning employee is entitled to be reemployed in the job that they would have attained had they not been absent for military service, with the same seniority, status and pay, as well as other rights and benefits determined by seniority. If necessary, the employer must provide training or retraining that enables the employee to refresh or upgrade their skills so they can qualify for reemployment. While the individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other individuals on non-military leaves of absence.

Health Benefits

Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 18 months at the full premium cost plus normal increases in premium. For military service of less than 31 days, health care coverage is provided as if the individual had never left. After notification by the employee to the school district of Military activation of more than 30 days, the school district shall inform the employee of the health benefits available under "COBRA" and furnish the employee with the enrollment forms for "COBRA".

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If an employee leaves and enters active duty for more than 30 days and discontinues health coverage for themselves and the employee's dependents, and the employee returns to the school district in the time frame stated in this document, they are entitled to have their health coverage prospectively reinstated in accordance with the plan then in effect.

Salary

Employees who are required to attend annual military training or special active duty for training shall not suffer any loss of salary, seniority or benefits during the first fifteen (15) days of such absence in any calendar year.

For any employee whose military leave in excess of fifteen (15) days commences on or after the effective date of this revised policy, the Winner School District will NOT pay the employee's salary while the employee remains on active duty military leave; provided, however, this will not apply to a military leave that began prior to the effective date of this revised policy if there was an arrangement for payment of some portion of salary during the military leave, in which case the District will honor that arrangement.

South Dakota Retirement System Benefits

The Winner School District participates in the South Dakota Retirement System (SDRS), and the SDRS-related information contained in this policy is for informational purposes only and is subject to change by SDRS, whose regulations, policies and procedures shall control. Employees are urged to check with SDRS to determine whether this information remains accurate, and should rely only upon the information obtained from SDRS.

Based on current provisions of SDRS, a participating SDRS member called to active duty will continue to earn credited service in SDRS while serving in the armed forces if he or she meets the following requirements:

- Secures authorization in advance from his/her employer for a
- leave of absence for military service
- Returns to the employment of an SDRS participating unit within one year of discharge from his/her initial period of military service
- Remains in the employment of that same employer for at least one year upon his/her return

This credited service does not require a contribution from either the employer or employee.

Survivor and Disability Benefits

The continuation of SDRS survivor and disability benefits, however, depends upon the continued classification of an employee as contributing SDRS member during his or her leave of absence. To meet this requirement, both the employee and employer contributions must be made to the system for each of the employee's pay periods. An employee may make the full employee and employer contributions to the system during his/her leave of absence.

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Return to Work or Application for Reemployment

Less than 31 days: Must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight (8) hour rest period.

More than 30 but less than 181 days: Must submit an application for reemployment within 14 days of release from service.

More than 180 days: Must submit an application for reemployment within 90 days of release from service.

The individual's separation from service must be under honorable conditions in order for the person to be entitled to reemployment rights. Documentation showing eligibility for reemployment can be required. The employer has the right to request that an individual who is absent for a period of service of 31 days or more provide documentation showing:

- the application for reemployment is timely;
- the five-year service limitation has not been exceeded; and,
- separation from service was under honorable conditions.

If documentation is not readily available or it does not exist, the individual must be reemployed. However, if after reemploying the individual, documentation becomes available that shows one or more reemployment requirements were not met, the employer may terminate the individual, effective immediately. The termination does not operate retroactively.

Once the employee has made application for re-employment the employee is entitled to employment and benefits as if the employee had never left. For example a teacher makes application for re-employment on June 1 (after school is out). If you normally pay the single premium health for the other employees during the summer, you will need to reinstate the returning employee and pay the single premium. If the employee has family coverage, they are responsible for that payment.

Questions should be directed first to Employer Support of the Guard and Reserve for an informal resolution at 605-737-6785 and then to Veterans' Employment and Training Service, U.S. Department of Labor 605-626-2325.

Legal Ref.: SDCL 3-12-47 (54),

Uniformed Services Employment and Reemployment Act of 1994