

New Guidelines for Employees Affected by Military Leave

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Pay, Leave and Reporting



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Use of annual leave / compensatory time / leave without pay

Beyond the 120 hours of paid military leave, an employee may be on a paid leave of absence or an unpaid leave of absence. The employee may wish to use accumulated annual leave and/or compensatory time (paid leave) to cover the period of time beyond the 120 hours before being placed on an unpaid leave of absence. An employee's annual leave and comp time balances do not have to be exhausted prior to the employee going into "leave without pay" status. Employees do not earn annual and sick leave while on a military leave of absence without pay, however, this time counts toward their state tenure (for purposes of retirement and leave accrual rate adjustments) if they return to state employment within the time frames outlined below after their honorable discharge.

Advance notice of military leave

An employee must provide the appointing authority an advance notice, either orally or in writing, of an official order from competent military authorities as evidence of military duty for which leave with pay is granted. However, if there are circumstances that make it impossible for the employee to provide such notice, or when military necessity prevents the employee from providing it, the notice requirement can be delayed or excused.

Returning to work following military leave

- The time frame for an employee's return to employment depends on the length of military service performed by the employee. If military service was:
 - from one to thirty (1-30) days, the employee should report at the beginning of the first regularly scheduled workday or eight (8) hours after the end of the military duty.
 - between thirty-one (31) and one hundred eighty (180) days, application for return to employment should be submitted not later than fourteen (14) days after completion of military duty.
 - more than one hundred eighty-one (181) days, application for return to employment must be submitted not later than ninety (90) days after completion of military duty.

- The application for return to employment may be extended to two years when an employee suffers service-related injuries and continues to be hospitalized after discharge.

The appointing authority may require the returning employee to provide documentation of the length and character of his/her military service in determining eligibility for return to employment; however, when such documentation is unavailable, the employee must be returned to employment until the documentation is available.

Affect of layoffs

An employee returning from military leave is protected from "discharge without cause" for specified periods of time. This is not new. Because layoffs are instigated by reasons outside of the employee's control and do not reflect discredit on the service of the employee, they are considered to be "without cause." Employees who use military leave are protected from layoff for a period of one year if the employee served in the military for a period of more than six months; and, for six months if the employee served in the military between one and six months. An employee who served for thirty (30) days or less has no protection from discharge without cause.

"State" military duty

The 120-hour limitation on military leave with pay does not apply to military service of employees engaged in the service of the state of Missouri at the call of the governor and as ordered by the adjutant general.

The complete text of the military leave Rules and Regulations of the Personnel Advisory Board and Division of Personnel can be viewed on-line at the following web site under the section "Leaves of Absence:"

<http://www.sos.state.mo.us/adrules/csr/current/1csr/1c20-5.pdf>

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