

LOS ANGELES UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION

LAWS AND RULES

820
June 23, 2004

820 MILITARY LEAVE OF ABSENCE

This rule is based on Military and Veterans Code Sections 389, 395.01, 395.02, 395.03, 395.04, 395.05, 395.1, and 395.3; the federal Uniformed Services and Employment and Reemployment Rights Act (USERRA) Section 44018 of the Education Code, and any other applicable provisions of federal law.

A. DEFINITIONS

1. The term "benefit", "benefit of employment", or "rights and benefits" means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment (USERRA, 38 U.S.C., Section 4303).
2. The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral hours duty as authorized by section 12503 of title 10 or section 115 of the title 32 (USERRA, 32 U.S.C., Section 4303).

B. An appropriate military leave shall be granted to any classified employee in accordance with the Military and Veterans Code, the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and other applicable provisions of federal law, and this Rule.

1. Temporary Military Leave

An employee is on temporary military leave if ordered to leave for active military training, inactive duty training, encampment, naval cruises, special exercises, or like activity for 180 days or less.

2. Military Leave Other Than Temporary

A military leave other than temporary shall be granted to any employee whose absence from a position of employment is necessitated by reason of service in the uniformed services for more than 180 days.

CHANGE:

Rule amended to reflect changes in the law regarding compensation for military reservists who are called to active duty.

Remove: January 1, 1993, page 1 of 3. Add: June 23, 2004, page 1 of 4.

LOS ANGELES UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION

820

June 23, 2004

LAWS AND RULES

C. Vacation and Illness Leave

1. Vacation shall accrue during paid military leave. Upon return from unpaid military leave, the accrual rate shall be adjusted as though the employee had been continuously in paid status. At the employee's option, accrued vacation may be taken before military leave or retained for use after return. Also, an employee may consume accrued vacation during an unpaid portion of military leave provided that

- a. a written request and evidence of the employee's vacation balance is submitted to the time-reporting office, and
- b. such vacation begins upon or after receipt of the request.

2. Illness Leave

Illness leave shall accrue during paid military leave.

D. Return from Military Leave

1. An employee shall accrue seniority credit during paid and unpaid military leave.
2. An employee returning from temporary military leave has the right to return to the same position or to a position in the same class at the same location that he/she was in prior to such leave. If no such position exists, the employee shall be treated as if he or she had been on active duty with the District when his or her former position was closed or relocated.
3. Upon application made within six months after cessation of war, national emergency, or termination of active military service, an employee who was on military leave other than temporary and was released, separated or discharged from the military under conditions other than dishonorable shall be returned to a position in his or her class. The right to return is granted provided that the employee returns within 12 months after the first date upon which active military service could have been terminated. The employee shall be entitled to a position in his or her former class or comparable class for which qualified ahead of any employee with a lesser amount of seniority. If no vacancy exists in the former class or comparable class within the time period of the right to return, the employee shall have the right to displace the employee with the least seniority in the former class or comparable class for which qualified. If there is not incumbent with less seniority in the former class or comparable class, the employee's name shall be placed on a reemployment list for the former class or comparable class for which qualified for a period not to exceed 39 months from the date of application to return.

CHANGE:

Rule amended to reflect changes in the law regarding compensation for military reservists who are called to active duty.

Remove: (Reissue) October 1, 1987, page 2 of 3. Add: June 23, 2004, page 2 of 4.

LOS ANGELES UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION

820

LAWS AND RULES

June 23, 2004

E. Eligibility for Examinations and Promotion

During the military leave, an employee shall be eligible to take examinations for which qualified. An eligible who is on military leave shall be certified for regular appointment when his or her name is reached. If appointed, the employee shall be granted military leave from the new assignment.

F. Supplementary Examinations

An employee who has returned from military leave in accordance with Paragraph D, above, shall be allowed to take a supplementary examination for any class for which an eligibility list exists, if the employee was unable to take the examination because of military service and if the veteran met the requirements for the examination when it was originally conducted. A supplementary examination shall be sufficiently similar to the original examination in order that its competitive character is preserved. If the veteran is successful in the supplementary examination, his or her name shall be added to the existing eligibility list in proper rank.

G. Compensation for the First Calendar Month of Military Leave

Upon presentation of adequate evidence of military service for which pay is requested, an employee on active or inactive military leave shall be paid as an employee of the District for the first calendar month of military service, exclusive of time not included in his or her assignment basis, provided that the following conditions are met:

1. The employee must have been in the District's service for at least one year immediately prior to the date the absence begins. An employee on temporary military leave may count all previous recognized military service toward the required one year of District service. One year of District service is not required in the case of an employee who is ordered into active military service as a member of the National Guard in a situation covered by Section 146 of the Military and Veterans Code.
2. A regular employee with a limited-term assignment in another class shall receive compensation in accordance with the current assignment.
3. An employee with limited-term status only, who meets other requirements for compensation during military leave, shall be paid for the same number of hours for which regular pay was received during the calendar month immediately preceding the military leave, exclusive of time not included in the assignment basis.

CHANGE:

Rule amended to reflect changes in the law regarding compensation for military reservists who are called to active duty.

Remove: (Reissue) October 1, 1987, page 2 of 3. Add: June 23, 2004, page 3 of 4.

Military Leave of Absence

820

Page 3 of 4

4. No more than the pay for one calendar month shall be allowed for any military leave or military leaves involving continuous military service or during any one fiscal year. The salary is to be paid at the salary rate that the employee would have received during the first month of military leave if the employee had remained in the District's service. Fractions of one month shall be paid at the salary rate that the employee would have received had the employee remained in the District's service for the equivalent fraction of time.

H. Compensation for Subsequent Days of Military Leave

Upon presentation of adequate evidence of military service for which pay is requested, and under conditions authorized by the governing board, an employee who, as a member of the California National Guard or an United States Military Reserve organization, on active military leave shall be entitled to the difference in pay between the amount of his or her military pay and allowances and the amount the employee would have received in District salary, for a period not to exceed 180 calendar days.

I. Return after Resignation to Enter Military Service

A former regular employee who resigned specifically to enter one or the armed forces shall be returned to District service in accordance with Paragraph D, above. The employee shall be entitled to all rights and privileges described above, except compensation during military leave.

CHANGE:

Rule amended to reflect changes in the law regarding compensation for military reservists who are called to active duty.

Remove: October 1, 1987, page 3 of 3. Add: June 23, 2004, page 4 of 4.

Military Leave of Absence