



RULES OF THE STATE PERSONNEL BOARD

478-1-.19 Military Leave

(1) General Leave Provisions:

For the purposes of this Rule, the following terms and definitions apply in addition to those in 478-1-.02 (Terms and Definitions):

- (a) "Ordered military duty" includes any military duty performed in the service of the State or of the United States pursuant to orders issued by a State or federal authority, including but not limited to attendance at any service school or schools conducted by the Armed Forces of the United States as a voluntary member of the National Guard, Georgia State Defense Force, or any reserve force or reserve component of the Armed Forces of the United States.
1. An employee who performs ordered military duty is eligible for military leave, whether paid or unpaid.
 2. In general, an employee may be absent for ordered military duty for a cumulative period of up to five years and retains reemployment rights with his/her agency. The five year period includes only the time the employee spends actually performing ordered military duty. A period of absence from employment before or after performing ordered military duty does not count against the five year limit.
 3. An employee is eligible to receive leave to attend training for a period(s) of up to a total of six months during any four-year period.
 4. Time served while on military leave will not be considered a break in service and will be credited for purposes of seniority, length of employment service, annual leave or holiday privileges, or for any other right or privilege of employment, reemployment, reinstatement, transfer or promotion.

(2) Absence for Examination Purposes:

An employee who is absent from work because he/she is ordered to report for a pre-induction or other examination to determine physical or other fitness for service in the Armed Forces of the United States will be granted a leave of absence without pay as required by law. In order to receive pay, an employee may request that the absence be charged against accrued annual leave or personal leave.

(3) Timely Notice of Leave:

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An employee should verbally notify his/her supervisor immediately when notified of a requirement to report for military duty. The employee also is expected to provide his/her supervisor with as much notice as possible of his/her anticipated date of release from duty and return to work. This notice requirement will be excused only if precluded by military necessity or if giving the notice is otherwise impossible or unreasonable.

(4) Pay and Benefits:

An employee who performs ordered military duty is entitled to his/her base pay and other compensation for up to a total of 144 hours of military leave in any one federal fiscal year while he/she is on military leave.

- (a) In the event the Governor declares an emergency and orders an employee to military duty as a member of the National Guard, while performing such duty, the employee will be paid his/her base pay and other compensation for an additional 96 hours of military leave in any one federal fiscal year while he/she is on military leave.
- (b) The employee may be required to provide a copy of his/her military orders or annual training schedule in order to be paid any military leave.
- (c) If the period of ordered military duty extends beyond the period covered by paid military leave as described in this section, the employee will be granted an authorized leave of absence without pay as required by law. Agencies may allow employees to use accrued annual leave, personal leave, holiday time, and/or compensatory time for absences due to military duty after paid military leave has been exhausted.
- (d) An employee who is scheduled to work for less than 40 hours per week is eligible for prorated paid military leave based on his/her regular work schedule.
- (e) An employee reinstated following ordered military duty will be entitled to seniority, status, pay and all other benefits as if the employee had not been absent, in compliance with applicable federal law.

(5) Health Care Continuation Coverage:

While on paid or unpaid military leave, an employee may continue to receive the same health care benefits as when he/she was an active employee for up to 24 months. If the military leave is unpaid, the employee will be responsible for directly paying the premium plus an administrative fee assessed by the State Health Benefit Plan.

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(6) Rights and Contributions under Retirement System:

An employee on military leave, whether paid or unpaid, may continue to contribute to the State's pension or retirement system as if they had been present and continuously engaged in the performance of their duties. The amount of required contributions will be deducted from the salary or other compensation paid while an employee is on military leave. If the required contributions exceed the amount of such compensation, the available amount will be applied towards the required contributions and the employee can pay the difference.

(7) Reemployment Rights:

An agency will reemploy an employee after a period of military service, provided the employee complies with applicable federal law, including the advance notice requirement and a timely notification of intent to return to employment, and other qualifying conditions.

- (a) Request for Reemployment. Upon completing a period of ordered military service, an employee must notify the agency of the intent to return to the employment position by either reporting to work or submitting a timely application for reemployment according to the following schedule:
1. One (1) regularly scheduled work day from discharge for employees who served for less than 31 days;
 2. Fourteen (14) calendar days of discharge by employees who served more than 30 days but less than 181 days; or
 3. Ninety (90) calendar days of discharge by employees whose military duty lasted more than 180 days or longer.
- (b) Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service. Extenuating circumstances may permit an employee a longer period to make a request for reemployment.
- (c) Qualifying Conditions. For an employee to be reinstated to their former position, they must be able to perform the essential functions of the position with or without reasonable accommodation. If the employee is no longer able to perform the essential functions because of disability sustained during this service, the employee will be considered for another position in the agency for which they are qualified

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unless the agency's circumstances have changed as to make it impossible or unreasonable to do so.

1. Additionally, the employee must have received an honorable or general discharge. The employee must provide the State with a certification of completion of military service duly executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia.

(d) Reemployment Position. A qualified employee who has been on military leave for 90 days or less will be re instated to the position left, with the employee's seniority, status, and pay adjusted for any promotions, pay increases, or other benefits he/she would have earned had they not been on military leave.

1. A qualified employee who served for 91 days or more may or may not be reinstated to the exact same position held prior to going on military leave. An employee who is not reinstated to their former position will be reemployed in a position with like seniority, status, and pay that takes into account any promotions, pay increases or other benefits they would have been eligible for had they not been on military leave.

(8) Protection from Discharge:

An employee returning from military leave and who served for more than 30 days but less than 181 days may not be discharged except for cause for 180 days after his/her reemployment. An employee returning from military leave and who served more than 180 days may not be discharged except for cause for a period of one year after his/her reemployment.

(9) Workforce Replacement:

Supervisors who must hire replacement workers for employees who are on military leave should inform the replacements that they are filling in for employees who are on military leave and may be reassigned or terminated when the employees returns.

Authority:

O.C.G.A. Secs. 45-20-2, 45-20-3, 45-20-3.1, 45-20-4.