

Staff Military Leave

Annual military leave

An employee who, as a member of a reserve or national guard unit or any other branch of the military organized under state or federal law shall be granted military leave with a right of reinstatement in accordance with state and federal law.

The employee shall receive full salary and benefits during such leave up to a maximum of 15 calendar days annually. All remaining leave to fulfill the annual military obligation shall be unpaid leave.

An employee who is required by the state or federal government to continue military service beyond the time for which leave with pay is allowed, shall be granted a leave of absence without pay for all such additional service.

Emergency military leave

Military leave of absence without pay shall be granted to any regular, full-time employee who enlists for military duty with any branch of the United States armed forces or who is called into active military service in time of war or other emergency declared by the proper authority of the state or United States. The employee shall be considered on a leave of absence during military service.

Notice of military service

An employee taking leave under this policy shall provide written or oral notice, as far in advance as possible, of pending military service. Employees on military leave resulting in absence of more than 30 days shall forward a copy of their military orders to the superintendent or designee.

Using paid leave in lieu of unpaid military leave

An employee taking leave under this policy may, at his or her discretion, use accrued vacation or other paid leave during time of military service. This shall not be a requirement, however.

Hiring substitutes

Where necessary to protect the public interest, a substitute employee may be hired by the school district to perform the duties of the employee on military leave until such time as the employee returns to work.

Reinstatement after service

Upon completion of military service, the employee shall be reinstated in the same or a similar position of like seniority, status and pay if such is available at the same salary and benefits which he or she would have received if leave had not been taken, subject to the following conditions:

1. The school district's circumstances have not changed to such a degree that reinstatement would cause an undue hardship on the district or make reinstatement impossible or unreasonable, including that the position has been abolished.
2. The employee is not physically or mentally disabled from performing the duties of the position except that the school district shall make reasonable accommodation required under federal and state law, including for any disability incurred or aggravated during military service.
3. The employee submits an honorable discharge or other form of release indicating that the military service was satisfactory.
4. The employee notifies the district of intent to return to work and returns to work within the time period set out in law.

Upon reinstatement, the employee shall have the same rights with respect to accrued and future vacation, sick leave, public retirement benefits and other benefits as if he or she actually had been employed during the time of such leave. Because

non-probationary status for teachers is not attained merely through continuous employment, a probationary teacher shall be reinstated at the actual year of service (year one, year two or year three) as when he or she began military leave.

Adopted: September 14, 1993

Revised and recoded: October 12, 2010

LEGAL REFS.: 38 U.S.C. §4301 *et seq.* (*Employment and Reemployment Rights of Members of the Uniformed Services Act*)
C.R.S. 28-3-601 *et seq.*

Swink School District #33, Swink, Colorado