

NOTE: While Colorado school districts are not required by law to adopt a policy on this subject some content in this sample reflects legal requirements school districts must follow. This sample contains the content/language that CASB believes best meets the intent of the law. However the district should consult with its own legal counsel to determine appropriate language that meets local circumstances and needs.

Staff Military Leave

Annual military leave

An employee who is 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 days annually. The leave year shall be as established by the district. 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 required, 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 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, but is not required to, use accrued vacation or other paid leave during time of military service.

Hiring substitute

Where necessary to protect the public interest, a substitute employee may be hired by the 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 and in accordance with state and federal law, 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 had leave not been taken and if the employee meets the applicable statutory requirements, including notification to the district of the employee's intent to return 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 had actually been employed during the time of such leave. Because nonprobationary status for teachers is not attained merely through continuous employment, a probationary teacher shall be reinstated at the actual year of service as when he or she began military leave.

Adopted Date: 11-28-1995

Re-adoption Date: 6-27-2006

LEGAL REFS.: 38 U.S.C. §4301 *et seq.* (Uniformed Services Employment and Reemployment Rights Act)
20 C.F.R. Part 1002 (regulation)
C.R.S. 28-3-601 *et seq.* (annual military leave for public employees)

NOTE: Federal law requires the district to notify employees of their rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). The United States Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations. For USERRA fact sheets and a sample notice, contact VETS at 1-866-4-USA-DOL (1-866-487-2365) or visit its website: www.dol.gov/vets.