

Emery County School District



Policy: GCCAD—Military Leave

Date Adopted: 12 February 2025

Current Review / Revision: 12 February 2025

Revised – First Reading August 6

Emery School district values military service and provides benefits for employees as outlined in the Uniformed Services Employment and Reemployment Rights Act (USERRA). Emery School District contracted employees that are mobilized for training, active duty, disaster response, etc. will be placed on military leave.

Employees without leave benefits will be placed on a Leave of Absence during military mobilization. Emery School District employees whose military activation requires absence from work must verbally notify their immediate supervisor and notify the Superintendent or designee in writing as soon as possible and provide a copy of their military orders to ensure full compliance with USERRA.

An employee is entitled to unpaid leave of absence from employment with the District to engage in service in the uniformed services and to return to employment or to be promptly reemployed by the District as provided by USERRA and this policy.

20 CFR 1002.32

20 CFR 1002.180

Utah Code § 71A-8-105(1) (2024)

The employee is entitled to all the rights and benefits that accompany an unpaid leave of absence taken from the District for other reasons. However, if during the period of service the employee knowingly provides the District with written notice of intent not to return to employment, the employee is not entitled to those benefits (although the employee still would be entitled to reemployment)

20 CFR 1002.149

20 CFR 1002.152

LEAVE OF 30 DAYS OR LESS

Upon written approval from the Superintendent or designee, an employee that is mobilized for 30 days or less must follow the leave policy GEC (Benefitted Staff Leave and Absences) and may use their own leave up to 15 days.

LEAVE OF GREATER THAN 30 DAYS

An employee that is mobilized for greater than 30 days, will be entitled to 15 days of paid military leave; and the use of personal leave days and/or vacation days will not be allowed. Once an employee's military leave is exhausted, the mobilized military member will be placed on a Leave of Absence (without pay) until they are released to return to their Emery School District assignment. A similar assignment will be reserved for employees upon their return from military service.

Consistent with District policy that employees do not accrue vacation or annual leave during an unpaid leave of absence for other purposes, employees on leave for military service do not accrue leave during the period of absence.

If the employee has health insurance coverage through the District, the employee may elect to continue that coverage for the period which is the shorter of either (1) 24 months from the beginning of absence for service or (2) the period from the beginning of absence for service until the employee is required to return to service or apply for reemployment. (If the employee does not already have health insurance coverage, the employee is not entitled to start new coverage when taking military leave. If the employee is receiving in lieu payments from the District based on having health insurance coverage with another insurance provider, those payments will be discontinued during the period the employee is on leave longer than 30 days.) If the period of absence for military service is 30 days or less, the employee will only be responsible for paying the regular employee share for insurance coverage. If the period of absence for military service is 31 days or longer, the employee will be required to pay 102% of the full premium for the coverage. An employee's coverage may be cancelled (subject to certain conditions) for failure to give the District advance notice of the leave, failing to elect coverage when the leave is for more than 30 days, or failing to pay the required premiums. If the employee's health insurance coverage is terminated in connection with military leave, it will be reinstated when the employee returns to employment.

[20 CFR 1002.164](#)

[20 CFR 1002.166](#)

[20 CFR 1002.167](#)

[20 CFR 1002.168](#)

~~Employees that receive medical benefits will need to request, should they choose, to pay the prorated portion of the employer's health insurance cost as well as 100% of the employee's portion of the insurance in order to continue their district medical benefits during their deployment.~~

The District will follow Utah state law regarding state retirement; all other district benefits will end unless maintained by the employee during the leave of absence.

If applicable, the prorated portion of the employee's contract, if owed, will be paid out in a lump sum or over the remaining contract period, as directed by the employee.

RETURN TO DUTY

Upon reemployment following service in the uniformed services, the employee will be placed in the position that the employee would have attained with reasonable certainty if not for the absence for military service, including the seniority, status, and rate of pay that the employee would have in that position, subject to the specific implementing regulations regarding determination of the position.

The maximum amount of military leave the employee is entitled to take from employment with the District is a total of 5 years. However, leave for periodic guard or reserve training does not count towards that total and there are other specific exclusions from this total as provided in the regulations.

[20 CFR 1002.32\(a\)\(2\)](#)

[20 CFR 1002.99](#)

[20 CFR 1002.103](#)

The employee must timely return to work or timely apply for reemployment following the leave for military service. If the employee fails to do so, the employee will be considered as absent without leave and will be subject to discipline in the same way that applies to other kinds of unexcused absences from work. If the leave period is less than 31 days or the leave was for a military fitness examination, the employee must report for work by the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service plus the expiration of 8 hours for travel from the place of service to employee's residence. If the leave period is between 31 and 180 days, the employee must submit a verbal or written application for reemployment not less than 14 days after completion of the service; however, if it is impossible or unreasonable to do so through no fault of the employee, the employee must submit the application on the next full calendar day after it becomes possible to do so. If the leave period is more than 180 days, the employee must submit a verbal or written application for reemployment not less than 90 days after completion of the service; however, if it is impossible or unreasonable to do so through no fault of the employee, the employee must submit the application on the next full calendar day after it becomes possible to do so. The time for reporting or applying will also be extended if the employee is hospitalized for or convalescing from an illness or injury incurred in or aggravated during performance of service.

[20 CFR 1002.115](#)

[20 CFR 1002.116](#)

[20 CFR 1002.117\(a\)](#)

The employee is not entitled to reemployment if the employee's discharge from service is a disqualifying discharge or under other than honorable conditions as defined by the applicable regulations. If the nature of the discharge is later changed by a military review board so as to no longer be disqualifying, the employee is entitled to reemployment but no back pay or benefits will be provided with respect to the time between the discharge and the change of the nature of the discharge.

[20 CFR 1002.32\(a\)\(4\)](#)

[20 CFR 1002.137](#)

[20 CFR 1002.138](#)

~~Employees mobilized for military service for 30 days or less will return to work the next duty day after the allowance for safe travel and eight hours of rest. Employees mobilized for 31-180 days must apply for reinstatement within 14 days after completion of service. Employees mobilized for over 180 days must apply for reinstatement within 90 days after completion of service.~~

Military Leave for State Duty—

Members of the Utah National Guard or the State Defense Force, when ordered to state military service by the governor, have the same rights and protections as provided by USERRA for activation to federal military service for the duration of their state service not to exceed five years. General officers of the Utah National Guard or the State Defense Force or other officers appointed to a general officer position, when appointed to state employment by the governor or the adjutant general, have the same rights and protections as provided by USERRA for activation to federal military service for the duration of their state appointment, even if the state appointment exceeds five years. Upon satisfactory release from state or federal orders, or from hospitalization incidental to the orders, the member shall be permitted to return to the prior employment and have the same rights and protections as provided by USERRA for activation to federal military service as it pertains to seniority, status, pay, and vacation the member would have had as an employee if the member had not been absent for military purposes.

Utah Code § 71A-8-105(2), (3), (4) (2024)

USERRA

All other USERRA items will be directed to the Superintendent or designee.