

Personnel – Certified/Non-Certified

Military Leave

1. Any employee of the Board of Education who is a duly qualified member of the Reserve components of the Armed Forces will receive, in addition to his/her normal vacation if applicable, a leave of absence with pay not to exceed 15 consecutive calendar days in any one calendar year in order to receive military training with the Armed Forces of the United States under the following conditions:
 - a. He/she shall give evidence defining the date of departure and date of return for purposes of military training 30 days prior to the date of departure.
 - b. He/she shall give evidence of satisfactory completion of such training immediately upon his/her return.
2. In time of war or state of national emergency, any employee of the Board of Education ordered to active duty in the Armed Services of the United States shall, upon application, be granted a specific leave of absence. The Board will pay said employee's salary for one month.* The remainder of the leave will be without pay. This leave shall continue for the duration of the period of actual military service and for up to 90 days immediately following the discharge of the employee or up to one year if said employee is hospitalized due to injuries sustained on active duty.
3. Within 90 days following discharge, each person desiring reinstatement shall so notify the Board in writing and shall furnish evidence of physical fitness and mental competence for the type of work in which he/she was engaged at the time leave was granted or such other work as may be available.
4. Reinstatement of such employee shall be made to his/her former position, if available, or to another available position for which he/she is qualified within 90 days after the receipt of the written notice that said employee desires to be reinstated.
5. All employees on military leave shall be given the benefit of any increments and benefits which would have been credited to them had they remained in active service with the Board of Education including uninterrupted seniority.
6. The Board reserves the right to extend a leave to those remaining in military service beyond the compulsory service period.

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Military Leave (continued)

7. The Board of Education employees called to active duty may maintain their insurance benefits during their absence at their own expense pursuant to COBRA regulations.
8. The Board recognizes that for strategic and security reasons, upon receipt of military orders, the employee may be required to leave immediately before granting due notice to the Board.
9. The District shall post a notice to persons entitled to rights and benefits under USERRA, of the rights, benefits, or obligations of such persons and the District. Such notice shall be posted where the District customarily places notice for its employees.
- * The number of working days within the 30-day calendar period commencing with the first day of the leave.

Legal Reference: The Uniformed Services Employment Reemployment Rights Act (USERRA, 1994 as amended)

Veterans Benefits Improvement Act of 2004, P.L. 108-454 §201, 203

20 CFR Part 1002, Notice of Rights and Duties Under the Uniformed Services Employment and Reemployment Rights Act; Interim Final Rule

Policy adopted: April 11, 2016

THOMASTON PUBLIC SCHOOLS
Thomaston, Connecticut

Personnel – Certified/Non-Certified

Military Leave

The Board of Education shall provide leave to qualified employees who are members of any component of the Armed Forces of the United States (Army, Navy, Marine Corps, Air Force, Coast Guard) including any employee who is a duly qualified member of the Reserve components of the Armed Forces, when the employee meets the requirements set forth below and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). A leave of absence for the period of active service shall be without loss of status and pay during the first 30 days of such leave. The remainder of the leave will be without pay.

Reemployment Rights:

In order to qualify for reemployment rights, the employee must be or must have been employed on a regular basis. Temporary employees are not eligible. In order to qualify for reemployment rights, employees must be qualified as set forth in these regulations and in The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

Employees must provide advance notice of military service unless military necessity prevents such notice or unless notice is otherwise impossible or unreasonable. Such oral or written notice must be provided by the employee or by an appropriate officer of the service branch. In order to qualify for reemployment, the employee cannot be absent for a period greater than five years unless the employee qualifies for an exception as set forth below. The employee must be or have been separated from the service under honorable conditions.

If the service is less than 31 days or is for the purpose of taking a fitness-for-duty examination, the employee must report for reemployment at the beginning of the first regularly scheduled working period on the first calendar day following completion of service plus additional time for safe travel back to the employee's residence plus eight hours.

If the service is for a period greater than 31 days but less than 181 days, the employee must submit an application for reemployment no later than 14 days following completion of service.

If the service is for a period greater than 181 days, the employee must submit an application for reemployment no later than 90 days following completion of the service.

These time limits may be extended up to two years if the employee is hospitalized or is convalescing from an injury or illness caused by the military service. The two-year extension may be further extended if reporting is impossible or unreasonable due to circumstances beyond the employee's control.

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Military Leave

Reemployment Rights (continued)

An employee with less than 91 days of service will be immediately re-employed in the position the employee would have attained had the employee not been absent if all qualifications for the position are met. If the employee is not or cannot reasonably become qualified for the advance position, reemployment will be offered in the same position held prior to military service if qualified. If the employee is not and cannot become reasonably qualified for the same position, a position of lesser status and pay will be offered.

An employee who is absent for more than 91 days will be offered reemployment under the same conditions as above except that a different position with equivalent pay, status, and seniority may be offered.

Refresher training or “update” training will be provided if appropriate and necessary.

If a qualified employee applies for reemployment and has a service-related disability, reasonable accommodations will be made if possible. If reasonable accommodations cannot be made, a position providing equivalent seniority, pay and status will be offered. If neither of these options is possible because of the disability, a position as nearly equivalent as possible in seniority, pay and status will be offered.

Employees who are reemployed under these circumstances are entitled to participate in any benefits available to employees on nonmilitary leaves of absence but must pay any employee participation costs that other employees pay.

An employee who is reemployed under these regulations will not be considered as having a break in service for purposes of any applicable pension plan and the military service time will be considered for benefit vesting and accrual consistent with state regulations and law.

Health Insurance Coverage:

If requested, the District will maintain health insurance coverage on the employee, spouse, and family for the first 30 days of military service regardless of whether the employee is called to active duty for more or less than 30 days. However, the employee must pay any employee participation costs that other employees pay. If the employee is called to active duty for more than 30 days, the military medical benefit will provide coverage. If the employee wishes to maintain the District-provided health benefits, the employee must pay the full cost of the premium, for a period not to exceed twenty-four (24)* months. *(In situations of more than 30 days service, the employee may be required to pay up to 102% of the premium for such continued coverage. Also, check any existing policy language or bargaining unit agreements for any additional obligations.)*

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Health Insurance Coverage (continued)

The employee (and the employee's spouse and family) may choose to go back on the District health plan immediately upon return to District employment. There will be no waiting period and no exclusion of pre-existing conditions, other than for VA-determined service-connected conditions.

Other Conditions:

The District will provide to employees covered by this policy and regulation:

1. Other rights and benefits that are generally provided to individuals of similar status that are on leave of absence;
2. All seniority, rights and benefits upon return to work as if the employee had remained continuously employed;
3. Protection from discharge upon return to work except for cause for a period of time depending on the length of military service.
4. A five (5) year cumulative service limit on the amount of voluntary military leave or call-up to military duty an employee can use and still retain reemployment rights; *(The 5-year total does not include inactive training drills, annual training, involuntary recall to active duty, or additional training requirements determined and certified in writing by the Service Secretary, and considered necessary for professional development or for completion of skill training or retraining.)*
5. The District shall post a notice to persons entitled to rights and benefits under USERRA, of the rights, benefits, or obligations of such persons and the District. Such notice shall be posted where the District customarily places notice for its employees.

*Applies to elections made on or after December 10, 2004.

Legal Reference: The Uniformed Services Employment Reemployment Rights Act (USERRA, 1994 as amended)
Veterans Benefits Improvement Act of 2004, P.L. 108-454 §201, 203
20 CFR Part 1002, Notice of Rights and Duties Under the Uniformed Services Employment and Reemployment Rights Act; Interim Final Rule

Regulation approved: April 11, 2016

THOMASTON PUBLIC SCHOOLS
Thomaston, Connecticut

YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

(Publication date – December 2005)

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ❖ you ensure that your employer receives advance written or verbal notice of your service;
- ❖ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ❖ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ❖ you have not been separated from service with a disqualifying discharge or under other than honorable condition.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ❖ are a past or present member of the uniformed service;
- ❖ have applied for membership in the uniformed service; or
- ❖ are obligated to serve in the uniformed service;

then an employer may not deny you any of the following because of this status:

- ❖ initial employment;
- ❖ reemployment;
- ❖ retention in employment;
- ❖ promotion; or
- ❖ any benefit of employment, because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement, in connection with a proceeding under USERRA, even if that person has no service connection.

HEALTH INSURANCE PROTECTION

- ❖ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ❖ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

ENFORCEMENT

- ❖ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ❖ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/elaws/userra.htm>**.
- ❖ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice for representation.
- ❖ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. This notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying this notice where they customarily place notices for employees.

U.S. DEPARTMENT OF LABOR 1-866-487-2365

**EMPLOYER SUPPORT OF THE GUARD AND
RESERVE (ESGR) 1-800-366-4590**