Office of Human Resources

1009 Military Leave

2026-11-04

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Georgia Department of Human Services
Human Resources Policy #1009

Military Leave

Release Date:	December 16, 2002	**Revised Date:**	May 29, 2020
		Next Review Date:	

References: U.S.C. Title 38, Chapter 43 — Uniformed Services Employment and Reemployment Rights Act of the Uniformed Services
O.C.G.A. 38-2-279 — Rights of Employees on Military Duty
Rules of the State Personnel Board 478-1-19 — Military Leave

Eligible Department of Human Services (DHS) employees are authorized to be absent from work while engaged in the performance of military duty and while going to and from such duty.

Section A: General Provisions

1. For the purposes of this policy, the following terms and definitions apply:
    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.
    b. An employee who performs ordered military duty is eligible for military leave, whether paid or unpaid.
    c. In general, an employee may be absent for ordered military duty for a cumulative period of up to five (5) years and retains reemployment rights with his/her agency. The five (5) 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.
    d. 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.
    e. 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.

Section B: Absence for Examination Purposes

1. 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.

Section C: Timely Notice of Leave

1. Employees are expected to provide their supervisor with as much notice as possible of their anticipated date of release from duty and return to work.
    a. This notice requirement will be excused only if precluded by military necessity or if giving the notice is otherwise impossible or unreasonable.
    b. Supervisors must be given a copy of the military orders in advance of military leave whenever possible.
    c. In the event of an emergency that prevents advance notice, supervisors are to be notified of ordered military duty and provided a copy of the orders as soon as possible.
    d. Employees on military leave are responsible for ensuring that their supervisors receive timely notification of changes in the duration of ordered military duty.
    e. This notice requirement will be excused only if precluded by military necessity or if giving the notice is otherwise impossible or unreasonable.
2. Letters approving military leave should be sent to employees from supervisors, as outlined in the Sample Military Approval Letter (Attachment #1).
3. A Request for Personnel/Payroll Action Form is to be completed placing the employee on military leave with and/or without pay. This form along with a copy of the military orders and letter approving the military leave is also to be forwarded for placement in the official personnel file.

Section D: Pay and Benefits

1. 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.
2. 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.
3. 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.
4. 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.

5. 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.
6. 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.
7. 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.

Section E: Rights and Contributions Under Retirement System

1. An employee on military leave, whether pa id or unpaid, may continue to contribute to the State's pens ion 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.

Section F: Reemployment Rights

1. DHS 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. Upon completing a period of ordered military service, an employee must notify their supervisor 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:
        I. One (1) regularly scheduled workday from discharge for employees who served for less than 31 days;
        II. Fourteen (14) calendar days of discharge by employees who served more than 30 days but less than 181 days; or
        III. Ninety (90) calendar days of discharge by employees whose military duty lasted more than 180 days or longer
2. 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.
3. 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 within DHS for which they are qualified unless the agency's circumstances have changed as to make it impossible or unreasonable to do so.

4. Additionally, the employee must have received an honorable or general discharge. The employee must provide DHS 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.
5. 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.
6. 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.

Section G: Protection from Discharge

1. 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.

Section H: Workforce Replacement

1. 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 return.

For additional information or assistance, please contact your local Human Resource Office, or email DHS-Policies@dhs.ga.gov.

1009 A1 Sample Military Leave Approval Letter

Georgia Department of Human Services
Human Resources Policy #1009 A1

[Insert Date]

Dear **[Insert Employee Name]**:

This acknowledges receipt of your military orders that indicate you have been called to active duty beginning _____ and ending _____. If subsequent military orders lessen or extend the period of active duty, you are to provide a copy of those orders to me as soon as possible.

You will be placed on military leave with pay beginning _____ through _____, and will be paid for eighteen (18) workdays (not to exceed 144 work hours). Effective _____, you will be placed on military leave without pay for the remainder of your active duty.

While on military leave without pay, health insurance and flexible benefits may be continued by paying the monthly premiums. You may elect to discontinue health insurance coverage while you are on military leave without pay. If you elect to discontinue coverage, there will be no forms to complete. However, please be advised if you do discontinue coverage your dependents will not be covered. Upon your return to work, health insurance coverage will resume on the first of the month following the appropriate premium deduction.

If you decide to continue health insurance benefits while on military leave without pay you must complete the attached Request to Continue Health Benefits during Leave of Absence without Pay Form and attach a copy of the military orders. All premium payments (check or money order) should include your social security number and are to be made payable to the State Health Benefit Plan for $_____. This includes a $1.00 processing fee. Prepayment of the first premium is required and should be mailed on or about the first of _____ for _____ coverage.

Please mail your first payment to _____ the DHS Benefits Coordinator in the Office of Human Resources. Subsequent monthly payments for health insurance premiums do not require submission of forms with the payment and should be sent no later than the 15th of the month directly to:

State Health Benefit Plan
P.O. Box 38342
Atlanta, Georgia 30334

You may elect to discontinue your flexible benefits. If you elect to discontinue coverage, there will be no forms to complete. Upon your return to work, flexible benefits coverage will resume on the first of the month following the appropriate premium deduction.

If you elect to continue your flexible benefits while on military leave without pay, all payments (checks or money orders) should include your social security number and are to be made payable to the Flexible Benefits Program in the amount of $_____. Please mail this payment directly to:

Flexible Benefits Program
Suite 1016, West Tower
200 Piedmont Avenue

Atlanta, GA 30334-5600

The above payment should arrive no later than the 20th of each month beginning with the first payment in _____ for _____ coverage.

You may elect to continue Group Term Life Insurance through the Employees' Retirement System (ERS) while on military leave without pay. You must provide ERS with a written notice to extend the coverage of group life insurance prior to your leave without pay. A copy of the form is attached for your use. The request will not be valid until received in the ERS office. Premiums in the amount of 1% of the monthly salary prior to the leave accumulate each month while on leave without pay and are due at the time of refund or retirement.

Attached is a copy of DHS Human Resources Policy #1009 - Military Leave your information. This policy provides the time frames for returning to work with the Department of Human Services following completion of your military leave as well as other information.

If you return to work following military leave you may pay contributions to the Employees' Retirement System and Deferred Compensation Program for the time period that the contributions were not paid during the military leave. You should contact the Employees' Retirement System and Deferred Compensation Program regarding applicable time frames.

Should you have any questions on the above, please contact _____ at _____ (phone number).

Sincerely,

[Employee’s Supervisor Signature]

[Insert Employee’s Supervisor Name]