



WINDHAM SCHOOL  
DISTRICT

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**DATE:** December 17, 2020  
**PAGE:** 1 of 4  
**SUPERSEDES:** April 17, 2015

## WINDHAM BOARD POLICY

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**SUBJECT:** MILITARY LEAVE

**AUTHORITY:** 10 U.S.C. § 12503; *Uniformed Services Employment and Reemployment Rights Act* (USERRA); 32 U.S.C. § 115; 38 U.S.C. §§ 4301-4334; 32 U.S.C. § 115; *Public Health Security and Bioterrorism Preparedness and Response Act of 2002*; 42 U.S.C. § 300hh-11(e)(3); Texas Government Code §§ 431.001–.138, 437.202–.204, 613.001-.023

**APPLICABILITY:** Windham School District (WSD)

### **EMPLOYMENT AT WILL CLAUSE:**

This policy **does not** constitute an employment contract or a guarantee of continued employment. The WSD reserves the right to change the provisions of this policy at any time.

Nothing in this policy limits the superintendent's authority to establish or revise human resources policy. This policy guides the operations of the WSD and **does not** create a legally enforceable interest for employees or limit the superintendent's authority to terminate a noncontract employee at will.

### **POLICY:**

The WSD shall comply with the provisions of applicable federal and state laws relating to employment and reemployment entitlements for prospective, current, or former members of the uniformed services.

### **PROCEDURES:**

#### I. Military Leaves of Absence

- A. WSD employees who are members of the state military forces, the reserve components of the United States Armed Forces, or a state or federally authorized urban search and rescue team shall be granted a leave of absence from their duties when they are engaged in training or duty ordered or authorized by the proper authority.

- B. During a military leave of absence, the employee may not be subjected to loss of efficiency rating, personal leave, sick leave, vacation time, salary, or seniority.
- C. Such leave shall not exceed 15 days in a federal fiscal year (October 1 - September 30). The employee is entitled to carry forward the balance of unused accumulated leave from one federal fiscal year to the next, not to exceed 45 workdays.
- D. After an employee has exhausted the 15 workdays of administrative leave entitlement within a federal fiscal year for authorized military training or active duty, the employee shall be placed on leave in accordance with the following guidelines.
  - 1. If the employee has accrued leave balances, the employee may elect one of the following:
    - a. Use all accrued leave, other than sick leave, and then be placed in a leave without pay - military (LWOP-Military) status;
    - b. Freeze all accrued leave and immediately be placed in an LWOP-Military status; or
    - c. Identify a specific number of accrued leave hours for use, other than sick leave, freeze the remaining balances of accrued leave hours, and be placed in an LWOP-Military status upon exhaustion of the leave hours identified for use.
  - 2. If the employee does not have any accrued leave balances, the employee shall immediately be placed in an LWOP-Military status.
- E. Such employees who are ordered to short-term military duty by proper authority shall be restored, when relieved from duty, to the position held by them immediately preceding the short-term military leave.

## II. Reemployment After Military Service

- A. An employee who leaves a WSD position for the purpose of entering into active duty with the regular or reserve of the United States Armed Forces or with the Texas National Guard or Texas State Guard is entitled to reemployment with WSD.
- B. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service.

- C. The employee returning from long-term military leave shall be restored to the same position held at the time of entering into active service or to a similarly situated position of like seniority, status, and pay if the employee is still physically and mentally qualified to perform the essential functions of the position.
- D. If an employee returning from long-term military leave is no longer qualified to perform the essential functions of their previous position by reason of disability sustained during their such military service, but is qualified to perform the essential functions of another position within WSD, the employee shall be restored to employment in the position for which they qualify and that will provide like seniority, status, and pay or the nearest approximation thereto.
- E. Any employee restored to employment after a long-term military leave shall be considered to have been on leave of absence during military service and shall be entitled to participate in retirement and all other benefits available to other employees in like positions.
- F. Veterans eligible for restoration to employment under the terms of this policy shall make written application for such restoration to the WSD superintendent within 90 days after discharge or release from active federal or state military service and shall attach to such application evidence of discharge, separation, or release under honorable conditions.
- G. Veterans eligible for restoration to employment under the terms of this policy shall not be discharged without cause before the first anniversary of the date of reemployment.

### III. Time Limits for Returning to Work

- A. Less than 31 days service: The employee must apply for reemployment by the beginning of the first regularly scheduled work period after the end of the last calendar day of duty, plus time required to return home safely and have an eight-hour rest period. If this is impossible or unreasonable, then as soon as possible.
- B. 31 to 180 days: The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
- C. 181 days or more: The employee must apply for reemployment no later than 90 days after completion of military service.
- D. Service-connected injury or illness: Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.

### IV. Health Care Coverage

- A. For military service of less than 31 days, health care coverage is provided as if the servicemember had remained working at WSD.
- B. For military service of more than 30 days, service members may elect to continue employer sponsored health care for up to 24 months; however, they may be required to pay up to 102% of the full premium.

\*Signature on file \_\_\_\_\_  
Patrick O'Daniel, Chairman  
Windham School District Board of Trustees