

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

POLICY 3.05.21 UNIFORMED SERVICES LEAVE

(Formerly 6.11 Military Leave)

(ORC 124.385, 5903.02 and 5903.05; O.A.C. 123:1-34-04 et seq.)

A. Definitions

1. “Benefit,” “benefit of employment or rights” and “rights and benefits” means any advantage, profit privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues to the employee because of employment, employment contract/agreement, employer policy, procedure, plan or practice.
2. “Service” means the performance of duty on a voluntary or involuntary basis in any of the Uniformed Services, and includes:
 - a. Active duty
 - b. Active and inactive duty for training
 - c. National Guard duty under federal authority
 - d. An examination to determine fitness for duty
 - e. Performance of funeral honors as authorized by federal law
 - f. Intermittent disaster response upon activation of the National Disaster Medical System or participation in authorized training.
 - g. Attending a military service academy
3. “Uniformed Service” means the United States Armed Forces, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service, Ohio organized militia and any other category of persons designated by the President in time of war or national emergency.

B. Uniform Services Leave with Pay

Any Board employee who also serves in the Uniformed Services is entitled to a Uniform Services leave of absence in accordance with Section 5903.02 of the Ohio Revised Code and the Uniformed Services Employment and Reemployment Rights Act (also known as “USERRA” or P.L. 103-353). The following USERRA provisions shall be applicable to each Board employee who is entitled to a Uniformed Services leave of absence.

1. An employee called up for service may use any leave with pay available to them, including sick leave.
2. An employee, or appropriate officer of the uniformed service in which the services is to be performed, must give the employee’s supervisor advance notice of service requiring leave, whenever possible.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

C. Unpaid Uniformed Services Leave

Any person who has held an office or position in the public service for a period of at least ninety days shall be granted a military leave of absence to be inducted or otherwise enter military duty. This military leave shall be without pay and shall be considered as a separation from service with reinstatement rights. Application for restoration shall be made within a period of ninety days after receipt of an honorable discharge, or certificate, or other evidence of satisfactory completion of service.

D. Employer paid health benefits will not continue throughout an unpaid leave, unless said leave qualifies as a Family and Medical Leave. See the Board's policy on Family and Medical Leave. A staff member on a leave of absence does not accrue sick leave or vacation leave.

E. Upon return from a leave of absence, a staff member will be returned to the same or similar position held at the time of separation or, if the classification no longer exists, the employee may be laid off.

F. If it is discovered that a leave of absence, granted for a specific purpose, is not being used for that purpose, the Superintendent may cancel the leave and direct the employee to report for work. Failure to report for work will be considered a resignation.

G. If an employee fails to return to duty on the day of the expiration or cancellation of an approved leave of absence, without satisfactory explanation to the Superintendent, he/she will be terminated.

H. Reemployment Rights

1. Employees who have been on unpaid uniform services leave and have been honorably discharged or released from active duty in an honorable status are entitled to reinstatement in the same or a similar position.
 - a. Returning employees with up to 30 days of service are to be placed in the position they would have attained had they remained continuously employed or their preservice position if the employee doesn't qualify to perform in a higher position.
 - b. Returning employees with service of 91 or more days may be given a higher position or a position of like seniority, status and pay, if qualified, or returned to a lesser position for which they are qualified.
 - c. 180 days or more of service in the Uniformed Services - an employee must report to work no later than ninety days after completion of service.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

Reemployed employees may not be discharged for up to one year, except for just cause.

2. The Board shall pay one hundred percent of the employee's health care premium for up to eighteen months when an employee has been called to service and will serve more than thirty-one days.
3. The Board will continue to make contributions to the employee's retirement fund that would have been made if the employee was not absent for Uniformed Services leave.
4. Upon returning to work for the Board, the employee will be granted full seniority for his/her entire enlistment time the same as if such employee had worked continuously for the Board during enlistment. Any employee who enters the Uniformed Services prior to completing the required probationary period shall be required to complete the remaining time under his/her former probationary status.
5. An employee returning from a Uniformed Services leave of absence shall be required to place, in writing, a request to be reinstated to his/her former position and the date he/she will be available for work within ninety days of returning from service or upon being honorably discharged from service.
6. Failure of an employee who has been granted a Uniformed Services leave of absence to request reinstatement to his/her former position within ninety days after receiving an honorable discharge or separation from service shall cause such employee to forfeit all reinstatement rights with the Board.
7. Notice for Uniformed Services leave of absence shall be made by the employee as far in advance as possible to the employee's supervisor, verbally or in writing, and the supervisor shall notify the Superintendent and the SCBDD HR office. The HR Office will supply the Scioto County Auditor a written version of the notice for payroll records.

I. Family and Medical Leave

The agency will comply the tenets of Public Law 103-3, known as the Family and Medical leave Act (FMLA) of 1993 and Public Law 110-181 the National Defense Authorization Act for Fiscal year 2008, and as amended. Together, these federal laws provide eligible employees with up to 12 weeks of unpaid Family and Medical Leave because of a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty status.) An eligible employee may be granted up to 26 weeks of unpaid FML to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

of that covered service member. The Board requires that all available paid leave be used before unpaid leave will be granted. Other restrictions apply. Refer to the policy on Family and Medical Leave and the Code of Federal Regulations for more information.