

SECTION 302: MILITARY LEAVE

302.1 POLICY

It is the policy of Black Hawk County to grant a paid leave of absence, in accordance with Iowa Code section 29A.28, to employees, other than temporary employees employed by the County for six months or less, who are ordered by proper authority to perform military duty or other service as members of the Armed Forces, National Guard or organized military Reserve Components, Civil Air Patrol, National Disaster Medical System or the Commissioned Corps of the Public Health Service.

302.2 Qualifying Duty

Qualifying duty or service under this policy means the performance of military duty on a voluntary or involuntary basis in as a member of the uniformed military services under competent authority, including active duty, active and inactive duty for training, National Guard duty under federal or state orders, a period for which a person is absent from employment for an examination to determine his or her fitness to perform any of these duties, and a period for which a person is absent from employment to perform certain funeral honors duty. It also includes Civil Air Patrol missions performed under Iowa Code section 29A.3A, certain service by intermittent disaster response appointees of the National Disaster Medical System (NDMS), and service in the Commissioned Corps of the Public Health Service.

302.3 Conditions of Leave

(a) In accordance with Iowa Code section 29A.1(a) an employee whose duty or service is greater than 30 continuous days shall receive a paid leave of absence, beginning with the first day of absence from work, for those days he/she would normally have been scheduled to work during the first 30 calendar days of absence or until the employee returns to work, whichever shall first occur. In the event the employee has already received one or more days of paid military leave during a calendar year, the 30-day calendar period shall be shortened by that number of days. For an employee whose duty or service is 30 continuous days or less (such as drills or annual training), a leave of absence under this policy, in accordance with Iowa Code section 29A.28(1)(b), will only be required for those days that the employee would normally have performed services for the County, as long as the maximum 30-day calendar period has not yet been exhausted.

(b) No more than 30 days of military leave shall be paid in a calendar year and for continuous duty or service exceeding 30 days and which crosses calendar years, only one 30 calendar day period of military leave shall be paid during the period of duty or service. For example, an employee who is activated for military duty in one year, then deactivated, and then activated again in the following calendar year would be eligible for up to another 30 days of paid military leave. The key is that there can be only one payment per activation, and the payment can be earned only once per year.

(c) The County shall provide any paid leave under this policy to the employee at the employee's base rate of pay. Any remaining leave for the calendar year shall be unpaid leave unless the employee elects to substitute his/her accrued paid leave time (e.g., vacation, personal days, etc.) for unpaid leave. An employee may not use accrued sick leave while on leave granted under this policy.

302.4 REQUEST FOR LEAVE

Upon receipt of orders for qualifying duty or service, an employee should notify his/her Department Head as soon as possible (unless he/she is unable to do so because of military necessity or it is otherwise impossible or unreasonable).

302.5 BENEFITS WHILE ON LEAVE

(a) During a leave of less than 31 days, an employee is entitled to group health plan coverage under the same conditions as if the employee had continued to work. For unpaid leaves of more than 30 days, an employee may elect to continue his/her health plan coverage under COBRA for up to 24 months after the absence begins. The employee's rights under COBRA and USERRA are similar but not identical. Any election that the employee makes pursuant to COBRA will also be an election under USERRA, and COBRA and USERRA will both apply with respect to the continuation coverage elected. If COBRA and USERRA give the employee different rights or protections, the law that provides the greater benefit will apply. The administrative policies and procedures in the COBRA Election Notice also apply to USERRA coverage, unless compliance with the procedures is precluded by military necessity or is otherwise impossible or unreasonable under the circumstances.

(b) During an unpaid leave of absence, the employee shall not be eligible for holiday pay or to accrue benefits such as vacation, personal days, sick leave, or other fringe benefits.

302.6 RETURN FROM LEAVE

(a) An employee returning from leave under this policy must report to work or request reemployment within the time period specified below based upon his/her length of duty or service or the employee shall forfeit his/her right to reemployment.

1. An employee who served for less than 31 days or who reported for a fitness to serve examination, must provide notice of intent to return to work at the beginning of the first full regularly scheduled work period that starts at least eight hours after the employee has returned from the location of service.
2. An employee who served for more than 30 days but less than 181 days, must submit an application for reemployment no later than 14 days after completing his/her period of service, or, if this deadline is impossible or

unreasonable through no fault of the employee, then on the next calendar day when submission becomes possible.

3. An employee who served for more than 180 days must submit an application for reemployment no later than 90 days after the completion of military duty.

(b) An employee injured while on leave under this policy must submit his/her application for reemployment at the end of the employee's recovery period, which may not exceed two years beyond the deadline stated above for submitting an application for reemployment based upon the employee's length of military service.

302.7 REQUIRED DOCUMENTATION

An employee whose leave under this policy was for more than 30 days may be required to provide documentation upon his/her return (unless such documentation does not yet exist or is not readily available) showing the following: (1) the application for reemployment is timely (*i.e.* submitted within the required time period) and (2) the employee received an honorable or general discharge, if the duty was military.

302.8 STATUS OF SENIORITY AND BENEFITS UPON RETURN

An employee who satisfies the reemployment eligibility criteria established by law and returns to his/her employment with Black Hawk County shall accrue seniority, and all rights and benefits determined by seniority, as if he/she had been on the job during the period of leave under this policy. Upon returning from leave, the employee shall be entitled to be placed in a position with all pay increases, promotions and other benefits that would have been awarded or earned had the employee not been away for duty or service. In the event an employee takes an unpaid leave under this policy during a calendar year, his/her paid leave benefits for the year during which the unpaid leave occurred shall be pro-rated based upon the period of time the employee was in pay status during the year.