

Laws Protect Teacher Jobs While on Active Military Duty

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Over the past year, hundreds of teachers who serve their country through the reserves have been called into active duty. Fortunately, the vast majority of school districts has recognized their legal and patriotic responsibilities to these employees and will ensure that their return to work is unhindered.

However, if you or a loved one are returning from duty to a district that fails to recognize its responsibility, it is important to know your rights.

70 O.S. §6-105 (C) ensures that teachers are paid for the first 30 days of military leave and also guarantees them a leave of absence for the period of active service, (generally up to five years and even longer when the employee cannot obtain a release from service). Hence, school districts must hold the job open while the employee is on military leave, hiring substitutes to perform the work if necessary. Remember, however, that the law requires employees to provide employers with advance notice of military service, if possible. While oral notice is sufficient under the law, we recommend notifying your employer in writing.

Additionally, 72 O.S. § 48 provides that political subdivisions, including school districts, may elect to pay employees the difference between their regular salary and their military pay for the duration of the employee's leave. Check your negotiated agreement to see if your district is required to make these payments — if not, it may be an issue worth raising in bargaining when your contract reopens.

In addition to the above state statutes, the federal Employment and Reemployment Rights of Members of the Uniformed Services Act (ERRMUSA) protects military personnel, including reservists, from discriminatory hiring practices, refusals to promote and/or failures to properly advance on the salary/benefit schedule. The law also guarantees reemployment in the same manner as the above Oklahoma statutes. Under the ERRMUSA, any person who believes his or her employer has violated the Act must report the violation to the Secretary of Labor, who will investigate the allegations. Following the investigation, the Secretary of Labor may initiate an enforcement proceeding through the Attorney General or the individual may file suit.

For our members, OEA legal services can assist in filling out the Department of Labor complaint forms and can also represent members in subsequent litigation if the Secretary of Labor is unsuccessful in resolving the dispute. OEA believes that it is of the utmost importance to ensure that our teachers in uniform can serve their country secure in the knowledge that the jobs they left behind await them when they return home. If you or someone you know is being penalized by a district due to military service, be sure to call your OEA advocate as soon as possible.