

OKOLONA FIRE PROTECTION DISTRICT

MILITARY LEAVE POLICY

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Effective Date:

11/12/2020

Replaces:

Any prior to effective date

Category:

Administrative

FEDERAL LAW

YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed at Okolona Fire Protection District (OFPD) if you leave OFPD to perform service in the uniformed service and:

- ☆ you ensure that OFPD receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with OFPD;
- ☆ you return to work or apply for reemployment at OFPD in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed at OFPD, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then OFPD may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

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In addition, OFPD may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

HEALTH INSURANCE PROTECTION

☆ If you leave OFPD to perform military service, you have the right to elect to continue your existing OFPD-based health plan coverage for you and your dependents for up to 24 months while in the military.

☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in OFPD's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

ENFORCEMENT

☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.

☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at 1-866-4-USA-DOL or visit its website at <http://www.dol.gov/vets>. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.

☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.

☆ You may also bypass the VETS process and bring a civil action against OFPD for violations of USERRA.

*******NOTE** that the above information regarding USERRA is correct the effective date of this policy. OFPD intends to follow the current version of USERRA whenever invoked by an employee. Further, there are many USERRA details not listed above. Each employee that anticipates utilizing USERRA is strongly encouraged to research any current USERRA version as well as the details of that version.

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KENTUCKY LAW

1. Okolona Fire Protection District (OFPD) employees in the National Guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United States Public Health service who, under competent orders, are called to duty or training in the service of a state or of the United States for **twenty-one (21) calendar days or less** will continue to be deemed OFPD employees with no changes in benefits and they shall be compensated pursuant to KRS 61.394 and 61.396.

2. KRS 61.396 mandates that all Kentucky political subdivisions (which includes all Chapter 75 fire protection districts like OFPD) shall grant all officers and employees annual military leave as provided by KRS 61.394. This has been further upheld by the Kentucky Office of the Attorney General – see OAG 79-625 as well as OAG 82-305.

3. All OFPD employees who are members of the National Guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United States Public Health service shall be entitled to leave of absence from their respective OFPD duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other OFPD rights or benefits to which they are entitled, while in the performance of duty or training in the service of a state or of the United States under competent orders.

4. In any one (1) federal fiscal year (October 1st to September 30th yearly), OFPD officers or employees, while on military leave, shall be paid their salaries or compensations for a period or periods not exceeding twenty-one (21) calendar days.

5. Any unused military leave in a federal fiscal year shall be carried over to the next year.

6. Any unused military leave shall expire two (2) years after it has accrued.

*******NOTE** that the above mirrors KRS 61.394 and 61.396 existing as of the effective date of this policy. Should that KRS change, it is the intent of OFPD for this policy to mirror any then current version of KRS 61.394 and 61.396 whether or not this policy has been officially changed by the OFPD Board of Trustees or posted on the official OFPD website.

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PRACTICAL MATTERS

1. As long as allowed by the actual Okolona Fire Protection District (OFPD) Vision and Dental Insurance Plans or any similar type of insurance plan that is not health insurance as well as being allowed by federal law, allowed by state law and not in conflict with any federal or state administrative regulation (during military leave) OFPD employees who are called to active duty may continue their coverage under the same employee benefit elections in effect prior to their military leave. However, OFPD employees are responsible to pay 100% for their share of the benefit costs during their military leave.

2. OFPD employees who enter military service for longer than thirty-one (31) days may continue to receive their group health insurance coverage by paying 100% of the premium costs pursuant to USERRA and for a period of time pursuant to USERRA as USERRA exists at that time. OFPD will pay the first thirty-one (31) days of health insurance coverage or as long as required by USERRA in effect at that time. However, each OFPD employee should be aware that OFPD group health insurance coverage usually has an HRA bridge component or some form of self- insurance. This fact may make the OFPD health insurance extremely costly to the OFPD employee on day 32. Thus, the OFPD employee should seek outside financial/tax advice regarding this matter.

3. What acts should an OFPD employee undertake if called to active duty:

- a. Immediately contact your OFPD supervisor and provide copies of all activation documents. While USERRA does not require written documentation, this step helps protect the rights of each OFPD employee.
- b. Immediately contact OFPD upon return from active duty.

4. What acts should OFPD undertake if notified an employee is called to active duty:

- a. Document in the OFPD employee file.
- b. OFPD Legal Counsel should immediately review KRS 61.394, KRS 61.396 and the most current version of USERRA to ensure all benefits and rights are bestowed upon the OFPD employee as required by law.