



Military Law as it Relates to the Classified and Unclassified Service

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Kentucky Revised Statutes:

KRS 18A.150 Preference points for active or honorably or generally discharged members of the active military, military reserves, or National Guard -- Conditions under which spouses, surviving spouses, and dependent parents may receive preference points -- Identification on register certificate -- Required interviews.

- (1) Any person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have five (5) points added to the veteran's entrance examination score for classified positions. Any current member of the active military, military reserves, or National Guard shall be entitled to the same number of points.
- (2) Any person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to the veteran's entrance examination score for a classified position.
- (3) The spouse of a person who has served in the active military, military reserves, or National Guard, was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies the veteran for positions along the general line of the veteran's usual occupation shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled veteran recovers.
- (4) Until remarriage, the surviving spouse of a person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable or general discharge separation.
- (5) A parent totally or partially dependent on a person who has served in the active military, military reserves, or National Guard and lost his or her life under honorable conditions while on active duty or active duty for training purposes or became permanently and totally disabled as a result of a service-connected disability shall have ten (10) preference points added to the parent's examination score for a classified position.
- (6) The preference points granted by subsections (1) to (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points may exceed one hundred (100).

(7) (a) When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified.

(b) 1. If the number of individuals identified in paragraph (a) of this subsection is less than five (5), the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government.

2. If the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than five (5).

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 4, sec. 1, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 154, sec. 37, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 180, sec. 2, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 129, sec. 2, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 109, sec. 1, effective July 13, 1984. -- Repealed, reenacted, and amended as KRS 18A.150, 1982 Ky. Acts ch. 448, sec. 30, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 132, sec. 4, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 86, sec. 6, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 162, sec. 6; and ch. 386, sec. 1. -- Created 1970 Ky. Acts ch. 28, sec. 1.

2010-2012 Budget Reference. See State/Executive Branch Budget, 2010 (1st Extra. Sess.) StateKy. Acts ch. 1, Pt. I, C, 1, (2) at 18.

2010-2012 Budget Reference. See State/Executive Branch Budget, 2010 (1st Extra. Sess.) Ky. Acts ch. 1, Pt. I, D, 10, (1) at 28.

Formerly codified as KRS 18.212.

KRS 18A.190 Holidays for state personnel -- Military spouses to receive paid deployment and return days off.

(3) Any state employee who is the spouse of a member of the United States Armed Forces, including a member of a state National Guard or a Reserve component on federal active duty, shall receive, at the discretion of the state employee, one (1) day off, with pay, from work when the member is deployed and one (1) day off, with pay, from work when the member returns from deployment.

KRS 61.371 Definitions for KRS 61.371 to 61.379.

As used in KRS 61.371 to 61.379, unless the context otherwise requires:

(1) "Public employee" means a person appointed to a position in public service for which he is compensated on a full-time basis, excluding elected officers;

(2) "Public service" means employment by the Commonwealth of Kentucky, or by any county, city, or political subdivision or by any department, board, agency, or commission thereof;

(3) "Employer" means the officer, employee, board, commission or agency authorized by law to make appointments to a position in public service;

(4) "Position" means an office or employment in the public service, excluding an office filled by popular election;

(5) "Military duty" means training and service performed by an inductee, enlistee, or reservist or any entrant into a temporary component of the armed forces of the United States, and time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefore. "Military duty" shall not include voluntary active duty for training of an individual as a reservist in the armed forces of the United States;

(6) "Board" means the personnel board established by KRS Chapter 18A;

(7) "Seniority" means the increase in compensation, status, and responsibility resulting from promotion or step progression within a class of a classified service or promotion or increase in compensation, status, and responsibility in the unclassified service.

History: Created 1966 Ky. Acts ch. 32, sec. 1.

KRS 61.373 Restoration of public employee to position after military duty -- Right to leave of absence - Appeals.

(1) Any public employee who leaves a position after June 16, 1966, voluntarily or involuntarily, in order to perform military duty, and who is relieved or discharged from such duty under conditions other than dishonorable, and who has not been absent from public employment due to military duty in time of war or national or state emergency for a period of time longer than the duration of the war or national or state emergency plus six (6) months or in time of peace for a period of time not longer than six (6) years, and makes application for reemployment within ninety (90) days after he is relieved from military duty or from hospitalization or treatment continuing after discharge for a period of not more than one (1) year:

(a) If still physically qualified to perform the duties of his position, shall be restored to such position if it exists and is not held by a person with greater seniority, otherwise to a position of like seniority, status and pay;

(b) If not qualified to perform the duties of his position by reason of disability sustained during such service, the public employee shall be placed in another position, the duties of which he is qualified to perform and which will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of his case.

(2) (a) Officers and employees of this state, or any department or agency thereof, shall be granted a leave of absence by their employers for the period required to perform active duty or training in the National Guard or any reserve component of the Armed Forces of the United States.

(b) Upon the officer's or employee's release from a period of active duty or training, except as provided in KRS 61.394, he or she shall be permitted to return to his or her former position of employment or a position with equivalent seniority, status, pay, and any other rights or benefits that would have been bestowed if he or she had not been absent.

(c) An officer or employee who is not permitted to return to his or her former position may appeal the dismissal in accordance with KRS Chapter 18A.

(3) In the case of any person who is entitled to be restored to a position in accordance with KRS 61.371 to 61.379, if the personnel board finds that the department or agency with which such person was employed immediately prior to his military duty:

(a) Is no longer in existence and its functions have not been transferred to any other agency; or

(b) For any reason it is not feasible for such person to be restored to employment by the department or agency, the board shall determine whether or not there is a position in any other department or agency of the same public employer for which the person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the board determines that there is such a position, the person shall be restored to the position by the department or agency in which the position exists.

Effective: April 13, 2010

History: Amended 2010 Ky. Acts ch. 153, sec. 13, effective April 13, 2010.—Create 1966 Ky. Acts ch.32, sec 2.

KRS 61.375 Restored employee discharged only for cause for year -- Seniority.

Any person who is restored to a position in accordance with KRS 61.371 to 61.379 shall not be discharged from his position without cause within one (1) year after his restoration, and shall, without limiting other rights conferred by this or other sections, be considered as having been on furlough or leave of absence during his period of military duty. He shall be restored without loss of seniority, including, upon promotion or other advancement following completion of any period of employment required therefor, a seniority date in the advance position which will place him ahead of all persons previously junior to him who advanced to the position during his absence in the Armed Forces.

History: Created 1966 Ky. Acts ch. 32, sec. 3.

KRS 61.377 Leaves of absence to permit induction in military service.

Any employee who holds a position in the public service shall be granted a leave of absence for the purpose of being inducted or otherwise entering military duty. If not accepted for such duty, the employee shall be reinstated in his position without loss of seniority or status, or reduction in his rate of pay. During the period the

employee shall for all purposes be considered to have rendered service and to have been compensated therefore at his regular rate of pay.

History: Created 1966 Ky. Acts ch. 32, sec. 4.

KRS 61.379 Rules and regulations -- Appeals from failure to restore or discharge -- Procedure.

The board shall adopt regulations to carry out the provisions of KRS 61.371 to 61.379 in accordance with KRS Chapter 13A. Any public employee who is not restored to a position, or who is discharged without cause within one (1) year after restoration, may appeal to the board for review. Upon review, both the employee and the employer may be represented by counsel. Technical rules as to admission of evidence shall not apply. If the board finds that the employer has violated the provisions of KRS 61.371 to 61.379 or regulations promulgated thereunder, it shall direct the employer to comply with the provisions and to compensate the employee for loss of pay suffered by reason of the violation; except any amount received by the employee during the period from his discharge to reinstatement from other public employment, unemployment compensation, or readjustment allowances from a public agency shall be deducted from such compensation.

History: Created 1966 Ky. Acts ch. 32, sec. 5.

Legislative Research Commission Note (10/5/90). Pursuant to KRS 7.136(1), KRS Chapter 13A has been substituted for the prior reference to KRS Chapter 13 in this statute. The sections in KRS Chapter 13 were repealed by 1984 Ky. Acts ch. 417, § 36 and KRS Chapter 13A was created in that same chapter of the 1984 Ky. Acts.

KRS 61.394 State employees' leave of absence -- Pay -- Unused military leave.

All officers and employees of this state, or of any department or agency thereof 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 duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of this state or of the United States under competent orders as specified in this section. In any one (1) federal fiscal year, 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. Any unused military leave in a federal fiscal year shall be carried over to the next year. Any unused military leave shall expire two (2) years after it has accrued.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 194, sec. 2, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 95, sec. 2, effective July 15, 2002. -- Amended 1994 Ky. Acts ch. 434, sec. 1, effective July 15, 1994. -- Created 1962 Ky. Acts ch. 51, sec. 1.

Kentucky Administrative Regulations:

101 KAR 1:395. Restoration from military duty.

RELATES TO: KRS 61.371-61.379

STATUTORY AUTHORITY: KRS Chapter 13A, 61.379

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.379 directs the Personnel Board to adopt administrative regulations to carry out the provisions of KRS 61.371 to 61.379. This administrative regulation will replace 101 KAR 1:390 which includes repetition of statutory language which is being repealed.

Section 1. Restoration from Military Duty. (1) If an employee advises his employer that he is leaving his position to perform military duty, the employer shall advise the employee in writing of his rights under KRS 61.371 to 61.379.

(2) An employee who returns from military duty and is denied restoration of employment shall be advised in writing of such denial by the employer.

(3) The required notice of denial by the employer shall include the employee's right to appeal to the state personnel board within the time limits prescribed by KRS 413.160.

(4) Appeals filed under this section shall be heard by the board pursuant to 101 KAR 1:365. (15 Ky.R. 1724; Am. 2009; eff. 3-8-89.)

101 KAR 2:102. Classified leave administrative regulations.

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394, 344.030, 29 U.S.C. 201, et. seq., 2601, et seq.
STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, 29 U.S.C. 201, et seq., 2601, et seq.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations which govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for classified employees.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United State Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave or leave without pay.

(4) The appointing authority may require a copy of the orders requiring the attendance of the employee before granting military leave.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of the duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

101 KAR 3:015. Leave administrative regulations for the unclassified service.

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394, 344.030, 29 U.S.C. 201 et. seq., 2601 et seq.
STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, 29 U.S.C. 201 et seq., 2601 et seq.
NECESSITY, FUNCTION, AND CONFORMITY; KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations which govern annual leave, sick leave, special leaves of absence, and for other conditions of leave. This administrative regulation establishes the leave requirements for unclassified employees.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from his civil duties, to serve under order on training duty without loss of his regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave or leave without pay.

(4) The appointing authority may require a copy of the orders requiring the attendance of the employee before granting military leave.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of the duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.