These rules supersede the policy on military leave dated 11/21/77. Administrative Rules of Montana 2.21.401 through 2.21.409 have been repealed.

INDEX

2.21.410 SHORT TITLE
2.21.411 POLICY AND OBJECTIVES
2.21.412 DEFINITIONS
2.21.413 ELIGIBILITY
2.21.414 RATE OF COMPENSATION
2.21.415 LEAVE NOT CUMULATIVE
2.21.416 REQUESTS FOR LEAVE
2.21.417 MILITARY LEAVE TAKEN OVER A HOLIDAY
2.21.418 MEMBERS OF THE NATIONAL GUARD OF THE STATE OF MONTANA
2.21.419 ACCOMMODATING REQUIRED DUTY
2.21.422 CLOSING

2.21.410 SHORT TITLE (1) This sub-chapter may be cited as the military leave policy.

2.21.411 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to provide leave for an employee to attend training camp or other similar training of the organized militia of the state or the military forces of the United States or to attend regularly scheduled training, such as drills.

(2) It is the objective of this policy to provide leave in accordance with provisions of 10-1-604, MCA; to comply with Chapter 43 of Part III of Title 38, U.S. Code; and to comply with Article VI, Section 13, Constitution of the State of Montana.

2.21.412 DEFINITIONS As used in this sub-chapter, the following definitions apply:

(1) "Employee" means any employee of the state of Montana, who has served the qualifying period.

(2) "Military leave" means a leave of absence with pay of up to 15 working days in any calendar year to attend regular encampments, training cruises and similar active duty training programs of the organized militia of the state or of the military forces of the United States.

(3) "Qualifying period" means a 6-calendar month period of continuous employment which an employee must complete to be eligible to receive military leave.

2.21.413 ELIGIBILITY (1) A permanent, seasonal, or temporary full-time employee, who is a member of the organized state militia or the military forces of the United States and who has completed the qualifying period, is eligible to receive up to 15 working days per calendar year of military leave.

(2) A permanent, seasonal, or temporary part-time employee, who is a member of the organized state militia or the military forces of the United States and who has completed the qualifying period, is eligible to receive prorated military leave.

(3) As provided in 10-1-604, MCA, "this leave may not be charged to the employee's annual vacation time."

(4) An employee who has not completed the qualifying period is not eligible to receive military leave; however, the employee must be given leave without pay to attend encampments, cruises, or other similar training.

2.21.414 RATE OF COMPENSATION (1) An employee on military leave receives the regular gross salary and benefits.

2.21.415 LEAVE NOT CUMULATIVE (1) Military leave which is not used in one calendar year may not be carried over to the next calendar year.

2.21.416 REQUESTS FOR LEAVE (1) An agency shall establish procedures for the application for and approval of military leave.

(2) An employee shall submit a copy of his military orders with the request for military leave.

(3) The agency shall document the number of days per year of military leave taken by an employee.

2.21.417 MILITARY LEAVE TAKEN OVER A HOLIDAY (1) Military leave taken over a legal holiday may not be charged to an employee's account.

2.21.418 MEMBERS OF THE NATIONAL GUARD OF THE STATE OF MONTANA (1) Employees of the state of Montana who are members of the National Guard of the state of Montana may be ordered to active federal and state service by competent authority to aid in the execution of the laws, suppress insurrection, repel invasion, or protect life and property in natural disasters as provided in Article VI, Section 13 of the Constitution of Montana.

(2) When ordered to active duty for such exigencies, state employees shall have the option of taking annual vacation leave or being placed in a leave without pay status. A state employee order to active federal or state service by competent authority is not an "affected employee" as defined in Rule 2.21.306, ARM, relating to Disaster and Emergency Leave.

(3) If the employee elects to take leave without pay during the period for which ordered to active duty by the Montana National Guard, the employee shall continue to accumulate annual vacation leave, sick leave, and other employee benefits when employed by the Department of Military Affairs even if it extends beyond 15 working days, since the employee is paid from state monies for the time on active duty.

2.21.419 ACCOMMODATING REQUIRED DUTY (1) An agency must allow an employee to take time off to attend any required duty for which the employee presents the appropriate military orders.

(2) An agency may, at its discretion, allow an eligible employee to take military leave to cover active duty training other than encampments or cruises, for example, basic training, when an employee presents appropriate orders.

(3) Military leave shall not be taken for regularly scheduled drills.

(4) An agency is not required to allow an employee to make up any regular or overtime hours missed as a result of attending training such as drills.

Rules 419 and 420 are reserved.

2.21.422 CLOSING (1) This policy shall be followed unless it conflicts with negotiated labor contracts which shall take precedence to the extent applicable.

Any questions that the departmental personnel office cannot answer concerning this policy should be referred to the Personnel Division, Department of Administration, Mitchell Building, Helena, Montana 59620, phone 449-3871.