

PERSONNEL

Military Leave

A. Training/Governor's Call

~~Military leave not to exceed fifteen (15) work days in any federal fiscal year (October 1-September 30) will be granted to full time employees for the purpose of engaging. All employees who are members of the state or federal military reserves are entitled to leaves of absence from their duties on all days during which they are engaged in federally funded military duty, to include training duty, and in response to orders issued by the Governor under the Code of Virginia. There shall be no loss of pay for employees on these categories of military leave.~~

~~The employee shall immediately upon receipt of official notice to report for duty, submit his/her official military orders or other support documents from a responsible military official and a completed Military Active Duty Leave Election Form to the Department of Human Resources, unless military necessity prevents giving notice or is otherwise impossible or unreasonable. prior to reporting for duty.~~

A. B. Call to Active Duty Pay/Paid Leave

1. All employees on Military Leave will receive up to fifteen (15) days paid leave per federal fiscal year (October 1 – September 30). When possible, employees are expected to make every effort to schedule Military Leave at times when school is not in session.
2. An employee who is scheduled for a physical examination for military service during working hours, including but not limited to pre-induction physicals, will be given paid leave.
3. In addition, after full-time employees who have exhausted the fifteen days of paid leave and who provide evidence or demonstrate a loss of income are eligible to receive a supplement. Full-time employees whose active-duty active-duty service with the regular armed forces of the United States or the National Guard or other reserve component requires the employee's absence from employment will receive a supplement if the employee's military base pay is less than the employee's current base salary paid by the School Division. The supplement will be equal to the difference between the employee's military base pay and the employee's current base salary at the time of commencement of active-duty active-duty Military Leave. Employees must submit copies of their military pay statements to the Department of Human Resources to receive the supplement.

1.4. Employees may use their accrued annual or personal reasons leave in lieu of receiving the supplement. Employees are not eligible to use their leave and receive the supplement at the same time.

2.5. Except as outlined above, Military Leave is unpaid.

1. Granting of Military Leave and Duration

~~a. Employees will be granted leave without pay for entrance into active duty with the Armed Forces. Those employees, who are able to provide evidence of a loss of income when called to active duty, may be eligible for a Military Pay Supplement (MPS).~~

~~b. Leave shall only be granted for active military service for those dates stated on the employee's military orders or on other support documents submitted from a responsible military official.~~

~~c. Employees are entitled to military leave and reinstatement provided that the cumulative length of the absence and of all previous absences by reason of service in the uniformed services does not exceed five years unless there is an extension beyond the five years for one of the following reasons:~~

~~(1) Ordered to or retained on active duty. Written documentation supporting this stipulation must be provided to the central office;~~

~~(2) Periods fixed by the Governor;~~

~~(3) An employee's hospitalization, associated with the active duty and continuing after discharge from military service, for a period of not more than two years.~~

2. Physical Examinations for the Military

~~An employee who is scheduled for a physical examination for military service during working hours, including but not limited to preinduction physicals, shall be given a leave of absence with full pay up to, but not exceeding, eight hours annually. The leave records should show "military leave with pay physical" for these hours.~~

3. Responsibilities of the Employee

~~a. An employee must furnish the Department of Human Resources with a completed Military Active Duty Leave Election Form and acceptable documentation from a responsible military official indicating the dates of active duty. Whenever possible, employees should give at least two weeks notice prior to anticipated entrance into the service.~~

~~b. In cases of emergency call up, the employee should notify his or her supervisor of the call up for duty as soon as possible.~~

B. Benefits

1. Health Insurance

a. At the employee's discretion and in accordance with applicable law, if the employee so desires, the employee and the employee's dependents may continue to participate in the School Division's group health plan for up to twenty-four (24) months while the employee is on Military Leave. The employee must notify the Consolidated Benefits Office/Department of Human Resources if the employee or she wishes to continue to participate in the School Division's group health plan.

b. Employees absent for thirty (30) days or less will be responsible for the employee portion of the premium during the absence. Employees absent

31 days or more will be responsible for the paying the entire premium payment (both employee and employer portions) during absence. If the employee is receiving the supplement or using accrued leave, the premium payment will be deducted from the employee's pay-check. If the employee is on unpaid Military Leave, the employee will be responsible for making entire premium payments (both employee and employer portions) for health coverage. Employees should do so by direct payment to the Consolidated Benefits Office (CBO) in advance of each month, or may defer payment of premiums upon return to work. If continuation of coverage is elected but subsequent premiums are not submitted, coverage will terminate at the end of the month for which the last premium was paid.

2. Retirement Benefits

Contributions to the Virginia Retirement System (VRS) will be discontinued when an employee is placed on active duty Military Leave. An employee reinstated after Military Leave will be treated as not having incurred a break in service. The period of Military Leave will be considered service to the School Division for purposes of vesting and benefit accrual. The School Division is responsible for its pension defined benefit plan funding obligation. The School Division is not required to make its contribution until the employee is reemployed.

The employee will be allowed, but not required, to make up the employee's ~~his or her~~ contributions to a contributory plan. The employee may repay the ~~his or her~~ employee contributions to for a period of up to three times the period of military service, but not to exceed five years. If the employee's retirement plan is contributory and the employee does not make up the employee ~~his or her~~ contributions, the employee ~~he or she~~ will not receive the employer match or the accrued benefit attributions that are contingent on the employee's contributions.

The employer and employee contribution will be calculated on the rate of pay the employee would have received but for the leave of absence.

3. Annual/Personal Reasons Leave

An employee will not accrue annual leave while on active duty Military Leave. Upon an employee's return to School Division service, the employee's annual leave accrual rate will be calculated to include the period of Military Leave.

4. Sick Leave

Employees will not accrue sick leave while on Military Leave. An employee's sick leave balance will be retained until the employee returns to School Division service.

5. Service Credit

Employees will accrue credit toward continuous School Division service for the period of Military Leave and past School Division service credit will be retained.

~~4. Status of Compensation and Benefits for Employees Placed on Leave for Military Service~~

~~a. Compensation—Employees called to active duty status who provide evidence or demonstrate a loss of income and who have exhausted the 15 (fifteen) days of paid Military Leave are eligible to receive a Military Pay Supplement (MPS). This supplement will be equal to the difference between the employee's military pay, including any non-taxable military allowances, and their current base salary at the time of Military Leave. Reservists will be eligible for the MPS for a period of up to 18 (eighteen) months.~~

~~b. Health Insurance—Employees called to active duty status for more than 30 (thirty) days have the option to continue or discontinue the health insurance benefit.~~

~~(1) If the employee elects to continue coverage, the school division will continue to pay the employer share of the premium for up to a maximum of 18 (eighteen) months.~~

~~(2) Once the 18 (eighteen) month period expires, the employee may elect to use PHSA/COBRA option for themselves and dependents. The full monthly premium plus administration fee (102% of the premium) is due on the first of each month.~~

~~(3) When reinstated into school division service coverage will be effective the first day of reinstatement.~~

~~c. Service Credit—An employee will accrue credit toward continuous division service for the duration of military leave and past division service credit will be retained.~~

~~d. Annual (Vacation) Leave Balances—An employee has the option to retain leave balances.~~

~~(1) At the option of the employee, unused annual leave (vacation) balances—up to the allowable maximum may be retained by the employee or paid off at the time the employee is placed on military leave without pay.~~

~~(2) An employee will not accrue annual leave while on military leave without pay. However, upon return to division service, an employee's annual leave accrual rate will be calculated to include the period of military leave without pay.~~

~~(3) Unused and unpaid annual (vacation) leave balances retained when the employee was placed on leave without pay will be reestablished upon return to division service. If an employee desires payment for annual leave balances at separation, payment must be made for the total annual leave balance, up to the maximum allowable, and it will not be allowable to buy these balances back.~~

~~e. Compensatory Leave—If not used to cover the period of absence due to military service, compensatory leave balances will be paid off at the time of placement on leave without pay.~~

~~f. Sick Leave Balances~~

~~(1) Sick leave balances will be frozen.~~

~~(2) An employee will not accrue sick leave while on military leave without pay. Credit for years of continuous division service will be calculated when the employee returns to division service and will include the period of military leave.~~

~~(3) Unused sick leave balances will be reestablished upon return to division service.~~

~~g. Holiday Pay—An employee placed on leave without pay for military service will not be paid for holidays occurring during the military leave.~~

~~h. Life Insurance—Coverage will continue for up to two months after the employee is placed on leave without pay for military service, with the school board making the full contribution. Life insurance coverage will begin again upon the employee's reinstatement to division service.~~

~~i. Retirement Benefits—Contributions to retirement will be discontinued when an employee is placed on military leave. A reinstated employee will be given credit towards retirement for the period of military leave. Upon reinstatement to division service, the employee must provide VRS with appropriate documentation in order to receive this credit.~~

C. Reinstatement from Military Leave

An employee who is entitled to Military Leave by reasons of service in federal military reserves will be reinstated in accordance with the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, (USERRA). If an employee's absence exceeds 31 days or more, any verbal or written communication of the employee's intent to return to work, will be considered an application for reemployment. Employees will be required to provide documentation, as defined under USERRA, to establish their eligibility for reemployment.

~~5. Reinstatement from Military Service~~

~~a. Conditions—Upon satisfactory completion of military service, the employee is entitled to reinstatement to his or her former position or to a position of like seniority, status, pay, and location provided that:~~

~~(1) The employee makes a request for reinstatement to the superintendent within the proper time frames established under the Uniform Services Employment and Reemployment Rights Act (USERRA) and any amending or superceding acts. Normally, these time frames are as follows:~~

~~(a) In the case of service of less than 31 days, not later than the beginning of the first full regularly scheduled work period on the first full calendar day following completion of service and allowing eight hours for travel time;~~

~~(b) In the case of service of more than 30 but less than 181 days, not later than 14 days after the completion of such service;~~

~~(c) In the case of service of more than 180 days, within 90 calendar days after release from active duty; or~~

~~(d) Within the appropriate statutory period after release from hospitalization associated with active duty which continues after discharge for a period of not more than two years.~~

~~(2) The employee shall present the superintendent with a certificate attesting to the satisfactory completion of military service. The school board is not obligated to reinstate an employee who has not satisfactorily completed military service or training. In such instances, eligibility for reinstatement should be evaluated on an individual basis, taking into consideration the employee's military record and work history with the division.~~

~~(3) The employee is still qualified to perform the duties of the former position;~~

~~(a) If an employee becomes disabled during military service and cannot perform the duties of the position to which otherwise entitled and a reasonable effort to accommodate the disability has not been successful, efforts must be made to place the employee in the nearest comparable position for which qualified, based upon the physician(s) recommendations(s) as to ability to perform the job. If no placement is possible, the employee shall be considered affected by a reduction in force (RIF) and the provisions of the RIF policy/regulation shall apply.~~

~~(b) If an employee no longer meets the minimum qualifications of the former position because of a change in job duties, the employee must be offered a position for which the employee is qualified and which is of like seniority, status, pay, and location. Before placing the employee in another position, the employee should be offered any training that might increase his or her ability to perform the job, if the training would have been available had no military service occurred.~~

~~(c) If the position an employee formerly held has been abolished, the employee shall be placed in a position comparable in status and pay to the one previously held.~~

~~(d) If such a position is not available, the employee shall be considered affected by a reduction in force (RIF) and the provisions of the RIF policy/regulations shall apply.~~

~~b. Effective Date—The employee will be reinstated within a reasonable period of time after making application for reinstatement. A "reasonable period of time" normally is considered to be within five to ten workdays. Longer periods may be necessary depending on the circumstances.~~

~~e. Salary and Proficiency Increases—The employee's salary will be determined as though the employee had not left the position.~~

~~(1) An employee will return to the same classification, salary grade, and salary step held at the time of being placed on military leave and the employee will receive all salary increases approved during the period of absence as though division service continued uninterrupted.~~

~~The employee's salary must also reflect any classification regrade which may have occurred to the employee's classification during the period of military leave.~~

D. Discrimination Against Members of Military Reserves Prohibited

Members of the military reserves will not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership.

Legal References Authority

Code of Virginia: § 44-93, as amended. Leaves of absence for employees of Commonwealth or political subdivisions.

Code of Virginia § 44-93.1, as amended, Supplement of military pay and additional life insurance benefits for employees of Commonwealth or political subdivisions.

Code of Virginia § 44-93.3, as amended. Reemployment rights.

Code of Virginia § 44-93.4, as amended. Discrimination against persons who serve in the Virginia National Guard, Virginia Defense Force, or National Guard of another state and acts of reprisal prohibited.

Code of Virginia § 44-102.1:1, as amended. Benefits upon call to active duty under a state of emergency; health care premiums.

Code of Virginia: § 44 75.1, as amended. Militia state active duty.

Code of Virginia: § 44 78.1, as amended. Request for assistance by localities.

Title 38, U.S. Code. Chapter 43. Part III §§ 4301-4333, as amended. Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA).

Approved by Superintendent: July 16, 1991

Revised by Superintendent: January 18, 1994

Revised by Superintendent: March 8, 2000

Revised by Superintendent: December 13, 2002

Revised by Superintendent: March 7, 2005

Revised by Superintendent: