

An employee will be eligible for all considerations of military leave in accordance with State Board of Education policy, ~~and~~ the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and Article 16 of Chapter 127A of the North Carolina General Statutes.

Employees are encouraged to schedule short periods of required active duty during vacation periods so as not to interfere with regular duties of the individual's employment.

A. NOTICE AND DOCUMENTATION REQUIREMENTS

1. ~~If an employee is going to be absent due to military obligations, the employee~~ Employees must provide to the superintendent advance written or oral notice of any absences due to military obligations, except in cases of emergency assignment or other conditions that make notice impossible or unreasonable.
2. For leave periods exceeding 30 days, the employee must also either provide written documentation evidencing performance of military duty or identify the military command in order for the school system to verify the request.

B. SHORT-TERM MILITARY LEAVE WITH PAY

1. In accordance with State Board of Education policy, an employee who is a member of a reserve component of the U.S. Armed Forces may take up to 15 workdays of paid military leave for active duty training per federal fiscal year, which runs from October 1 through September 30. Members of the National Guard may take additional paid leave beyond these 15 days for special state activities when so authorized by the governor.
2. After an employee has used all of his or her paid military leave, the employee may choose to use any accumulated vacation leave, bonus leave, or comp time during the period of military service; however, no employee will be forced to use such paid leave during military service.

C. UNPAID MILITARY LEAVE FOR EXTENDED ACTIVE DUTY

1. Employees may take extended leaves of absence for state or federal military duty under honorable services status, for required training, or for special emergency management in accordance with state and federal law and State Board policy. Such leave is unpaid, except as described in paragraph C.2, below. The employee may use any available eligible paid leave prior to going on unpaid leave.
2. During ~~these periods of~~ extended military leaves, which must not exceed five years cumulatively plus any period of additional service imposed by law, the employee will be paid the difference in military base pay and state salary,

including non-performance-based bonuses, when the military pay is less than the state salary. Differential pay will be paid from the same source of funds as the employee's public school salary. An employee may not receive differential pay while absent on any type of paid leave.

D. REINSTATEMENT FROM MILITARY LEAVE

1. If the individual ~~reapplies~~ applies for reinstatement following separation from military duty, his or her reemployment and related rights is are governed by the provisions of the USERRA (for members of reserve components of the U.S. Armed Forces, including members of the North Carolina National Guard returning from active federal duty) or Article 16 of G.S. 127A (for members of the North Carolina National Guard returning from active state duty). ~~In~~ accordance with that law, if the individual served less than 91 days, he or she will be placed in (1) the escalator position (the position the individual would have held if he or she had remained continuously employed); (2) if not qualified for the escalator position after reasonable efforts, including providing training, by the school system to qualify the individual, then the pre-service position (position that the individual held on the date that military service began); or (3) if not qualified for the pre-service position after reasonable efforts by the school system, any other position that is the nearest approximation first to the escalator position and then to the pre-service position, which the individual is qualified to perform. If the individual served more than 90 days, he or she will be placed in (1) the escalator position or a position of like seniority, status and pay; (2) if not qualified for escalator position or like position after reasonable efforts by the school system to qualify the individual, then the pre-service position or a position of like seniority, status and pay; or (3) if not qualified for the pre-service position or like position after reasonable efforts by the school system, any other position that is the nearest approximation first to the escalator position and then to the pre-service position, which the individual is qualified to perform. If the individual suffers a service-connected disability, he or she will be placed in (1) the escalator position; (2) if, due to the disability, the individual is not qualified for escalator position after reasonable efforts by the school system to qualify him or her, any other position with equivalent seniority, status and pay; or (3) if not qualified for an equivalent position after reasonable efforts by the school system to qualify the individual, a position that is the nearest approximation to an equivalent position in terms of seniority, status and pay consistent with the circumstances of his or her situation.
2. Employees must meet all applicable state or federal deadlines for reporting back to work or applying for reinstatement.
3. Under certain circumstances, an employee may receive teaching experience credit and retirement credit for service in the military, in accordance with State Board regulations.

E. EXPLANATION OF BENEFITS

When an employee is determined to be eligible for unpaid military leave under this policy, the superintendent or designee shall provide the employee with an explanation of his or her rights and benefits, including those related to leave, salary increases, medical insurance options, retirement status, the possibility of differential pay and reinstatement rights.

F. COMPLIANCE WITH OTHER REQUIREMENTS

The board will follow and apply all other applicable legal requirements when administering military leave under this policy.

Legal References: Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; G.S. 115C-47, -302.1(g), -302.1(g1); [127A art. 16](#); 16 N.C.A.C. 6C .0406; *North Carolina Public Schools Benefits and Employment Policy Manual*, §§ 9.6 – 10.4 (2008-2009)

Cross References: Leave (policy 7510)

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