

MILITARY LEAVE AND BENEFITS

Leave

All employees of Essex County School Board 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, including training duty, or when called forth by the Governor.

Immediately upon receipt of official notice to report for duty, the employee will notify his/her supervisor of the need for military leave. A copy of the official orders must accompany the leave request.

Pay/Paid Leave

There shall be no loss of regular employer pay during such leaves of absence, except that paid leaves of absence for federally funded military duty, to include training duty, shall not exceed 21 workdays per federal fiscal year, and except that no employees shall receive paid leave for more than 21 workdays per federally funded tour of active military duty. When possible, military leave for employees on less than a 12-month contract should be arranged during non-duty hours.

An employee who is scheduled for a physical examination for military service during working hours, including but not limited to pre-induction physicals, receives paid leave.

In addition, full-time employees of the Essex County School Division whose 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 receive supplemental pay in the amount for the difference between gross monthly military compensation and Essex County School Board contracted compensation if the employee's military compensation is less than the regular salary paid to the employee by the Essex County Public Schools Division.

The employee will be permitted, upon request, to use any vacation, annual, or similar leave that had accrued at the time military leave began.

Except as outlined above, military leave is unpaid.

Benefits

Health Benefits

An employee reemployed 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 division for purposes of vesting and benefit accrual. The Essex County Public Schools Division is responsible for its pension plan funding obligation. The Essex County Public Schools Division is not required to make its contribution until the employee is reemployed.

The employee is allowed, but not required, to make up the employee's contributions to a contributory plan. The employee may repay employee contributions 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's contributions, the employee will not receive the employer match or the accrued benefit attributable to the employee's contribution because the employer is required to make contributions 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 absence to serve military duty.

Reemployment

An employee who is entitled to military leave by reason of service in the federal military reserves is entitled to be reemployed by the Essex County School Board as long as the employee

- has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);
- has not been absent for more than five years; and
- returns to work as outlined below.

If the employee was absent from work for

- less than 31 days, the employee must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest and report to work;
- more than 30 days but less than 181 days, the employee must submit an application for reemployment within 14 days after the completion of service;
- more than 180 days, the employee must submit an application for reemployment within 90 days after the completion of service.

Employees who are entitled to military leave due to service in the Virginia military reserves must make written application for reemployment within

- 14 days of release from duty or from hospitalization following release if the length of the employee's absence by reason of service in the uniformed services does not exceed 180 days, or
- 90 days of release from duty or from hospitalization following release if the length of the employee's absence by reason of service in the uniformed services exceeds 180 days.

Upon returning from duty, an employee will be restored to the same job the employee held before leaving or to a comparable job. The Essex County School Board is not obligated to reemploy persons returning from military leave in certain unusual situations specified by state and federal law.

Termination after Reemployment

A person who is reemployed after returning from more than 30 days of military duty will not be discharged except for cause

- within one year after the date of reemployment, if the person's period of military service before the reemployment was more than 180 days; or
- within 180 days after the date of reemployment, if the person's period of military service before the reemployment was more than 30 days but less than 181 days.

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.

Adopted: April 9, 2012
Revised: December 9, 2013
July 13, 2020

Legal Refs: 38 U.S.C. §§ 4312, 4313, 4316, 4317.

20 C.F.R. §§ 1002.259, 1002.261, 1002.262, 1002.267.

Code of Virginia, 1950, as amended, §§ 22.1-289.2, 44-93, 44-93.1, 44-93.3, 44-93.4, 44-102.1.