



Authority <b>State Personnel Commission, UNC Board of Governors</b>
Title <b>Military Leave Policy for SPA and EPA Non-faculty Employees</b>
Responsible Office <b>Human Resources</b>
Subject <b>Leave</b>
Applies to <b>SPA and EPA Non-faculty Permanent Employees</b>

**History:** Last revised:

**Additional References:** NC GS 127A-116 and the Uniformed Services Employment and Reemployment Rights Act of 1994

**Related Policies:** Employment Policies for EPA Non-faculty, Military Leave Policy for Faculty

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## 1. POLICY STATEMENT

Leave shall be granted to employees of NC A&T SU for certain periods of service in the uniformed services. No agent or employee of the University shall discriminate against any employee of the University or applicant for employment for University employment because of his/her membership, application for membership, performance of service, application for service or obligation for service in the Uniformed Services.

The provisions of this policy apply to SPA Permanent employees. Temporary employees are not eligible, except that they are covered by the reinstatement policies.

NC A&T SU shall notify employees of their rights under the Uniformed Services Employment and Reemployment Rights Act.

Policies and guidelines for military leave vary depending on the particular purpose of the leave. The different types of leave are:

- Active Duty Training and Inactive Duty Training
- Physical Examination
- Reserve Active Duty

- Extended Active Duty and Other Military Leave Without Pay
- Civil Air Patrol and State Defense Militia

Each type of leave and the applicable benefits are covered below:

## **2. DEFINITIONS**

**“Service in the Uniformed Service”** refers to the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes:

- Active duty (extended active duty, mobilization or call up of reserve components),
- Active duty for training of reserve components (annual training – usually 2 weeks or special schools),
- Initial active duty for training (initial enlistment in reserve or National Guard),
- Inactive duty training (drills – usually on weekends),
- Full-time National Guard (usually a 3-year contract),
- A period for which a person is absent to determine fitness of the person to perform such duty, or
- Service in or training for the National Disaster Medical System.

**“National Guard”** is a reserve of the U. S. Armed Forces. The N. C. Army and Air National Guard respond to the Governor as Commander in Chief and serve as the military arm of State government and respond to the President of the U. S. in time of war.

**“Uniformed Services”** includes:

- Armed Forces and the Reserve Components (Army, Navy, Air Force, Marine Corps, Coast Guard, Army and Air National Guard),
- Commissioned Corps of the Public Health Services,
- National Disaster Medical System intermittent disaster-response appointees, and
- Any other category of persons designated by the President in time of war or national emergency.

The Civil Air Patrol and State Defense Militia are included in accordance with the Special Provisions at the end of this policy.

## **3. ACTIVE DUTY TRAINING AND INACTIVE DUTY TRAINING**

Leave with pay, up to a maximum of 120 hours each Federal fiscal year (October – September), pro-rated for part-time employees, shall be granted to members of the uniformed services for:

- Active duty training (annual training or special schools, including an authorized training program for the National Disaster Medical System)
- Inactive duty training (drills – usually on weekends) NOTE: If the drill is not scheduled on the employee's off-day, the employee has the option of requesting that the work schedule be rearranged, or the employee may use any unused portion of the 120 hours leave with pay, vacation/bonus leave or leave without pay.

Additional military leave needed for training shall be charged to vacation/bonus leave or leave without pay at the discretion of the employee.

NOTE: When a military obligation is less than 31 days, an employee is authorized eight (8) hours recoup time before and after performance of military duties or military training. This time may also be charged to the 120 hours leave with pay, leave without pay, or vacation/bonus leave.

The employee is required to notify his/her supervisor of upcoming duty and/or schedule changes as soon as they know.

#### **4. PHYSICAL EXAMINATION**

Leave with pay shall be granted for a required physical examination relating to membership in the uniformed services.

#### **5. RESERVE ACTIVE DUTY**

When ordered to State or Federal active duty, or as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (including special activities of the National Guard, usually not exceeding one day, when so authorized by the Governor or his authorized representative), the following shall apply for each period of involuntary service:

- Members shall receive up to thirty (30) calendar days of pay based on the employee's current annual State salary.
- After the thirty (30) day period, members shall receive differential pay for any period of involuntary service. This pay shall be the difference between military basic pay and the employee's annual State salary, if military pay is the lesser. Any cost-of-living adjustment should be included in the differential pay. Career growth adjustments or performance bonuses should be determined in the same manner as for any employee on leave without pay.

The employee or an appropriate officer of the uniformed service in which such service is performed shall provide written or verbal notice of any service. For periods of military

leave with differential pay, the employee shall provide a copy of their Leave and Earnings Statement or similar document covering the period eligible for differential pay.

Prior to the thirty (30) days of full pay and the differential pay, the employee may choose to have accumulated vacation/bonus leave paid in a lump sum (maximum of 240 hours of vacation leave), exhausted or retained (part or all) until return. The employee shall retain any unused sick leave. FLSA exempt employees may exhaust any compensatory time prior to exhausting leave or it may be paid in a lump sum.

### **Benefits**

**Service credit.** During the period of reserve active duty, whether receiving full pay, differential pay, or no pay, the employee shall not incur any loss of total State service.

**Longevity.** If eligible, the employee shall continue to be paid longevity payments during the period of reserve active duty.

**Leave.** The employee shall continue to accumulate sick and vacation leave. If the employee does not return to State employment, vacation leave earned while of reserve active duty will be paid in accordance with the Vacation Leave Policy.

**Retirement.** Retirement contributions shall not be reported to the Retirement System for periods of differential pay. The employee shall receive retirement service credit for periods of service up to the time the employee was first eligible for discharge if the employee returned to State employment within two years or any time after discharge if he/she had completed at least ten years of membership service in the Retirement System.

**Health Insurance.** When on State duty, the State continues to pay for health coverage for members of the National Guard. When on Federal duty, the State will pay for coverage in the State Health Plan for at least thirty (30) days from the date of active service pursuant to the orders. Partial premiums are not accepted; therefore, if a full premium is paid to cover a partial month, coverage shall also continue to the end of that month. After that, the employee may choose to continue coverage in the State Health Plan by paying the full premium. If the employee chooses to exhaust vacation leave, the State pays for coverage while the leave is being exhausted.

## **6. EXTENDED ACTIVE DUTY AND OTHER MILITARY LEAVE WITHOUT PAY**

Military leave without pay shall be granted for all uniformed service duty that is not covered by military leave with pay. Examples of such service include:

- Initial active duty for training (voluntary initial enlistment),
- Extended active duty (voluntary) for a period not to exceed five years plus any additional service imposed by law,
- Full time National Guard duty (usually a voluntary 3 year contract),
- While awaiting entry into active duty, such period as may be reasonable to enable the employee to address personal matters prior to such extended active duty,
- The period immediately following eligible period(s), as defined in Section 8 of this policy, while reinstatement with State government is pending, provided the employee applies for such reinstatement within the time limits defined.
- Employees hospitalized for, or convalescing from, an injury or illness incurred in, or aggravated during the performance of extended active duty, except that such period shall not exceed two (2) years beyond their release from extended active duty under honourable conditions. The employee shall also be entitled to leave without pay for the period from the time of release by the physician until actually reinstated in State employment, provided the employee applies for such reinstatement within the time limits defined.
- Duties resulting from disciplinary action imposed by military authorities, or
- Inactive duty training drills) performed for the convenience of the member, such as equivalent training, split unit assemblies, make-up drills, etc.

There is no requirement to excuse an employee for incidental military activities such as volunteer work at military facilities or other unofficial military activities.

The following types of service do not count toward the cumulative 5-year limit of military service a person can perform while retaining reemployment rights:

- Unable (through no fault of the individual) to obtain release from service or service in excess of five (5) years to fulfil an initial period of obligated service,
- Required drills and annual training and other training duty certified by the military to be necessary for professional development or skill training/retraining, or
- Service performed during time of war or national emergency or for other critical missions/contingencies/military requirements.

The employee or an appropriate officer of the uniformed service in which such service is performed shall provide written or verbal notice of the service.

Prior to going on Leave Without Pay, the employee may choose to have accumulated vacation/bonus leave paid in a lump sum (maximum of 240 hours of vacation leave), exhausted, or retained (part or all) until return. The employee shall retain any unused sick leave. FLSA non-exempt employees may exhaust any compensatory time prior to exhausting leave or it may be paid in a lump sum.

## Benefits

**Service Credit.** The employee shall continue to earn time toward total State service during period eligible for military leave without pay, if the employee is reinstated within the time limits outlined in the Reinstatement Section.

**Longevity.** If eligible, a longevity payment computed on a prorate basis shall be paid. The balance shall be paid when the employee returns and completes a full year. Then, a full payment will be made on the employee's longevity date that was established before going on leave without pay.

**Leave.** The employee shall not accumulate vacation or sick leave.

**Retirement.** The employee shall receive retirement service credit for periods of service up to the time the employee was first eligible for discharge if the employee returned to State employment within two (2) years, or any time after discharge if he/she had completed at least ten years of membership service in the Retirement System.

**Health Insurance.** The State shall pay for coverage in the State Health Plan for at least thirty (30) days from the date of active service pursuant to the orders. Partial premiums are not accepted; therefore, if a full premium is paid to cover a partial month, coverage will also continue to the end of that month. After that, the employee may choose to continue coverage in the State Health Plan by paying the full premium. If the employee chooses to exhaust vacation leave, the State also pays for coverage while the leave is being exhausted.

## 7. CIVIL AIR PATROL AND STATE DEFENSE MILITIA

The Civil Air Patrol is not a reserve component; however, it is an auxiliary to the Air Force. Its members are not subject to obligatory service. When performing missions or encampments, authorized and requested by the US Air Force or emergency missions for the State at the request of the Governor or the Secretary, Department of Crime Control and Public Safety, its members are entitled to military leave with pay not to exceed 120 hours (pro-rated for part-time employees) in any calendar year. Exceptions may be granted by the Governor. Regularly scheduled unit training assemblies, usually occurring on weekends are not acceptable for military leave; however, employing agencies are encouraged to arrange work schedules to allow employees to attend this training.

The State Defense Militia is considered a reserve to the National Guard, but it is not a reserve component of the US Armed Forces. Its members are not subject to obligatory service unless they are assigned to a unit that is ordered or called out by the Governor. Only under the following conditions are these employees entitled to leave with pay:

- Infrequent special activities in the interest of the State, usually not exceeding one day, when so ordered by the Governor or his authorized representative or
- State duty for missions related to disasters, search and recur, etc., again only when ordered by the Governor or his authorized representative.

Under one of these conditions, an employee may be granted military leave not to exceed 120 hours (pro-rated for part-time employees) during any calendar year. State employees who are members of the State Defense Militia are not entitled to military leave with pay when volunteering for support of functions or events sponsored by civic or social organizations even though such support has been “authorized.”

Regularly scheduled unit training assemblies, usually occurring on weekends, are not acceptable for military leave; however, employing agencies are encouraged to arrange work schedules to allow the employee to attend this training.

## **8. REINSTATEMENT**

The agency is required to provide the same treatment that would have been afforded had the employee not left to perform uniformed service. (This includes temporary and intermittent employees.) Reinstatement shall be made if the employee reports to work or applied for reinstatement within the established time limits, unless the service was terminated by a separation with a dishonourable or bad conduct discharge or a separation under other than honourable conditions, as characterized pursuant to regulations prescribed by the Secretary of the applicable military branch. Employees who resign to enter military service without knowledge of their eligibility for leave without pay and reinstatement benefits, but who are otherwise eligible, shall be reinstated as if they had applied for this benefit.

The employee is responsible for submitting an application for reemployment or reporting back to work within the prescribed time limits. If this is not possible through no fault of the employee, the employee must report back or submit the application as soon as possible. The service duration and periods for returning or applying for reemployment are as follows:

- Less than 31 days, must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an 8 hour rest period,
- More than 30 days, but less than 181 days, must submit a written or verbal application for reemployment with the agency not later than 14 days after the completion of the period of service, or
- More than 180 days, by submitting an application with the agency not later than 90 days after the completion of the period of service.

Reinstatement shall be to the position he/she would have likely achieved had he/she remained continuously employed ("escalator positions"); or, if the period of uniformed service was in excess of 90 days, his/her "escalator positions" or one of like seniority, status and pay. Such reemployment is to be effective promptly.

If, during military service, the employee suffers a disability incurred in or aggravated during uniformed service, to the extent that the duties of the "escalator position" cannot be performed, the employee shall be reinstated to a position most nearly comparable to the "escalator position" with duties compatible with the disability and without loss of seniority.

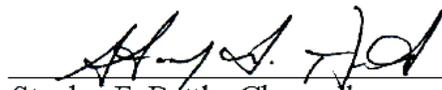
The employee's salary upon reinstatement shall be based on the salary rate applicable to the proper "escalator position." In no case will the reinstated employee's salary be less than when placed in a military leave status. If the employee was in trainee status at the time of military leave, the addition of trainee adjustments may be considered, at the discretion of the supervisor, if it can be determined that military experience was directly related to development in the area of work to be performed in the trainee position. The addition of trainee adjustments must be made if it can be shown that progression within or through such status is based merely upon the passage of time with satisfactory performance.

Approved:



Linda R. McAbee, Vice Chancellor for Human Resources

Date: 1/10/08



Stanley F. Battle, Chancellor

Date: 1/10/08