

Summary of Benefits Under Military Law, Section 249

The following information is provided solely as a reference summary for agency convenience and does not contain any new information.

Benefits Under Section 249 of the Military Law

Section 249 of the Military Law entitles honorably discharged former reservists or former National Guard members who served during peace time to a day off with pay on or in lieu of July 4. In order to be eligible, at least one day of this reserve service must have occurred outside time of war as defined in Section 85.1(c) of the Civil Service Law.

To qualify, the reserve duty must have been active reserve duty during which the employee was required to attend drills, not inactive reserve duty where the employee was subject to being recalled but was not required to attend drills. Reservists who were honorably discharged from a period of active reserve duty and who have reenlisted for a subsequent period of reserve duty are eligible for this benefit.

There is no New York State residency requirement; an employee need not have served in a reserve or National Guard unit in New York State. There is no requirement that an employee have Attendance Rules coverage in order to be eligible for this benefit.

When an eligible former reservist who has elected holiday pay for holidays worked is required to work on July 4, Independence Day, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to law. If, on the other hand, such employee waived holiday pay, one day of holiday leave satisfies both the contractual entitlement and the legal entitlement.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for July 4 under Section 249 of the Military Law is tied to the 24-hour calendar day period on July 4 and is not capped at 7.5 or 8 hours.