

Summary of Benefits Under Public Officers Law, Section 63 and 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 63 of the Public Officers Law

Section 63 of the Public Officers Law entitles certain veterans to a day off with pay on or in lieu of Memorial Day and November 11, Veterans' Day.

To qualify, an employee must be a veteran who was honorably discharged or who was discharged under honorable conditions and who:

- Served in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States (including reservists who served on active duty in these branches) at any time; or
- Served in the Armed Forces of the United States or its allies in time of war, including National Guard members serving on active duty during time of war or national emergency.

There is no New York State residency requirement for the benefit provided by Section 63 nor are employees required to have Attendance Rules coverage in order to be eligible for the benefit provided by Section 63.

When an eligible veteran who has elected holiday pay for holidays worked is required to work on one of these holidays, such employee is entitled to holiday pay pursuant to the negotiated agreement and to holiday leave pursuant to Section 63 of the Public Officers 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 under Section 63.

While contractual holiday compensation is limited to 7.5 or 8 hours and is tied to the designated holiday shift, holiday compensation for Memorial Day and November 11 under the Public Officers Law is tied to the 24-hour calendar day period on the date of the holiday and is not capped at 7.5 or 8 hours.

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.

July 4, 2010 is a Sunday and, under the General Construction Law, New York State as an employer will observe Independence Day on Monday, July 5, 2010. If required to work on Monday, July 5, an eligible reservist would be entitled, pursuant to the negotiated agreement, to holiday pay or holiday leave depending on his/her holiday waiver. However, the benefit under Section 249 of the Military Law is tied to the calendar date of July 4 and an eligible former reservist required to work on Sunday, July 4, 2010 would be entitled to a day of holiday leave under Section 249 for work on Sunday, regardless of his/her contractual benefit for Monday, July 5.

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.