

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

DIVISION OF STAFFING SERVICES

GENERAL INFORMATION BULLETIN No. 01-04

To: Department and Agency Personnel and Affirmative Action Officers
From: William Doyle, Director, Staffing Services
Subject: Special Military Benefits for State Employees Activated in Connection with the Events of September 11, 2001
Date: September 28, 2001

At the request of Governor George Pataki, and in accordance with Memoranda of Understanding entered into between the State and the various unions, the Civil Service Commission will be amending the Attendance Rules for Employees in New York State Departments and institutions to extend military benefits to those employees federally ordered or ordered by Governor Pataki to active military duty (other than for training purposes) in connection with the events of September 11, 2001. The Commission will be amending the Attendance Rules to provide supplemental military leave for those employees to ordered active duty on or after September 11, 2001, similar to that provided employees called to military duty in connection with the Persian Gulf, Bosnia, and Kosovo military actions.

Reservists and National Guard members on active duty unrelated to these events are not entitled to these benefits.

Leave Benefits

Under section 242 of the New York State Military Law, employees are entitled to military leave, with pay, for 30 calendar days, or 22 work days, whichever is greater, in any calendar year or continuous period of absence. Following exhaustion of the leave provided under section 242, employees activated on or after September 11, 2001 are now entitled under the Attendance Rules and Memoranda of Understanding to an additional 30 calendar days or 22 working days of military leave at full pay.

Additionally, upon exhaustion of such supplemental leave and any available leave credits other than sick leave, which the employee elects to use, employees are entitled to leave at reduced pay. Employees on leave at reduced pay status will be paid their basic annual State salary as of the time of being activated, plus location pay and geographic differential, reduced by the amount of base pay, plus allowances for food and shelter, received from the United States government for their service.

Employees who are on military leave at full pay under section 242 of the Military Law or on supplemental military leave at full pay, continue to be treated as other employees in full pay status under the Attendance Rules. While on leave at reduced pay, employees are not eligible to be credited with biweekly leave accruals. They are, however, eligible to be credited with vacation bonus days and personal leave days on their anniversary dates.

Employees shall be eligible for supplemental military leave and leave at reduced pay through September 10, 2002.

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Health Benefits

As provided for by collective bargaining agreements and Memoranda of Understanding, health benefits will be continued for the dependents of those employees activated on or after September 11, 2001, provided such employee has been enrolled in the New York State Health Insurance Program with dependent coverage for at least 30 days prior to being activated. Health benefits will be provided to covered dependents at no cost to the employee for a period not to exceed 12 months from the date of activation, less any period the employee remains in full pay status. Contribution-free benefits will cease to be provided at such time as the employee's active duty is terminated or the employee returns to State employment, whichever occurs first. Dental and Vision benefits will also be continued for dependents at no cost to the eligible employee during this period. Cost-free continuation of health, dental, and vision benefits will also be provided to all non-represented State employees under the authority of §161-a of Civil Service Law. Employees enrolled in the M/C Life Insurance Program may continue their basic life insurance coverage for themselves and their dependents by paying the same premium as they pay while on the payroll.

Personnel Status Issues

An employee who leaves employment for ordered military duty in connection with this crisis must have his/her position held, regardless of intervening circumstances, while engaged in (and while going to and from) ordered military duty. This applies to all employees regardless of status, the duration of their position, the nature of their appointment, or the employee's relative seniority.

Any employment status changes which would have occurred as a matter of law by the simple passage of time during an employee's absence, and without the exercise of any discretion by the employer, must be granted upon reinstatement. Agencies may effect these transactions during the employee's military leave of absence. Agencies are also free to exercise their discretion to effect other personnel transactions which would have a positive effect on the individual's status during absence on ordered military duty in connection with this crisis.

Agencies continue to have discretion to count military leave as time served, and the authority to extend probationary periods as required by Rule 4.5, where there is a formal periodic evaluation of a probationer's performance against fixed performance standards. See Rule 4.5(f).

The Department of Civil Service will endeavor to provide alternate test dates for examinations held while a qualified employee was absent. A case-by-case review must be made at the time of an employee's return to determine if arrangements can be made for the employee to take the examination. It is important that agencies help employees identify which examinations have been held in their absence, and contact the appropriate Staffing Services Section for assistance. Employees must make requests for alternate test dates to the Department of Civil Service within 60 days of their reinstatement from military leave.

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Federal law provides strong guarantees of reinstatement, and subsequent retention for one year, for those who serve in active military. Every concerted effort must be made to re-employ and retain all employees returning from ordered military duty in connection with the crisis resulting from the events of September 11, 2001, regardless of intervening circumstances. However, seasonal employees do not have to be restored to pay status until the season in which they normally work.

The Staffing Services Division will work closely with you to ensure that the State meets its obligation to re-employ and retain, regardless of intervening circumstances, all employees returning from ordered military duty in connection with this crisis. Because situations may arise where the operation of mandated Civil Service procedures, such as the promulgation of an eligible list or the processing of a layoff, might jeopardize the re-employment or retention of such an employee, the Department of Civil Service will assist in developing any necessary temporary positions and will work with you to identify an alternate placement.

Questions about attendance and leave issues should be directed to the Department's Attendance and Leave unit at (518) 457-2295. Agencies should also refer to **Attendance and Leave Manual Advisory Memorandum 01-06**, which describes in greater detail the attendance and leave benefits available to employees on military leave in connection with the events of September 11, 2001.

Employees who have questions about State administered health benefits should be directed to the health benefits administrators of their agencies or to the Employee Benefits Division (EBD) of the Department of Civil Service at 1-800-833-4344. Health benefits administrators should contact their EBD processors with any questions. (A separate memorandum with additional details on the eligibility rules and administrative procedures for benefit continuation will be sent to agency health benefits administrators by EBD.)

Questions concerning personnel status, such as probationary periods, eligible lists, examinations, abolition of positions and the processing of personnel transactions should be directed to your Staffing Services Representative.