

## **MILITARY LEAVE**

The provisions of this rule shall apply to members of a Reserve Component of the Armed Forces of the United States who are called to duty for military purposes, and to members of National Guard Units which are called to active duty as a result of a non-local or non-state emergency.

### **Military Leave with Pay**

Provided they give advance notice, employees serving on job appointment, provisional, probationary or permanent status, shall be entitled to military leave with pay. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable. The maximum military leave with pay for military purposes is 15 working days per calendar year.

### **Use of Annual and Compensatory Leave for Military Purposes.**

Employees serving on job appointment, provisional, probationary or permanent status, who give advance notice of military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

### **Use of Leave Without Pay for Military Purposes.**

Employees serving on job appointment, provisional, probationary or permanent status, who have either exhausted annual leave and compensatory time or choose not to use their paid leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six years. After six years, he/she shall be separated from the classified service. This rule does not extend the term of temporary appointments which were made for less than six years; if the original term of the appointment was less than six years, the agency may end the appointment as originally scheduled and the employee may be separated.

### **Rights Upon Return**

Provisional, probational and permanent employees and employees serving on job appointments returning to their classified positions under the provisions of this Rule or Rule 8.19, which governs time frame requirements for restoration to state employment, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent for military training or military active duty; however, both provisional and probational status shall be governed by the provisions of Rule 9.3.

The provisions of this section of the rule apply to employees serving on job appointment, provisional, probationary or permanent status, who are called to active duty, and who are on Leave Without Pay by choice or because all annual and/or compensatory leave has been exhausted. It shall apply retroactively to September 11, 2001. The provisions shall NOT apply to employees on "inactive duty for training" (weekend drills).

When Military Leave with Pay has been exhausted, an employee whose military base pay is less than his state base pay shall be paid the difference between his military base pay and his state base pay in his regular position. Such payment shall be made on the same frequency and manner as the

employee's regular state pay, unless other voluntary arrangements are made. Employees receiving the pay differential shall provide to agency officials any documentation appropriate to ensure the payment amount is calculated correctly. Employees who choose to use their annual leave during their period of military absence shall not be eligible for receipt of the pay differential, unless the leave was used between September 11, 2001, and the date of the adoption of this rule.

Employees shall continue to accrue sick and annual leave for the entire period of service, beginning the date of the service. Leave shall be accrued on the same basis as though the employee had not been activated. Leave earned shall be credited to the employee upon his return from active duty.

Employees who are on Leave Without Pay shall receive, each calendar year, the full 15-days of Military Leave with Pay. The pay differential allowed shall be suspended until the 15-day Military Leave with Pay period is exhausted and the employee returns to Leave Without Pay status.

If paid leave has been used during any portion of service from September 11, 2001, through the date of adoption of this rule, an employee who chooses to use the pay differential option shall have his leave balance re-credited with a leave amount equal to the value of the pay differential the employee would have received had this rule been in effect on September 11, 2001.

A probationary or permanent employee, who was called to active duty for military purposes and who resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded.