Policy 5.22

Military Leave Policy

The College complies with the Uniformed Services Employment and Re-employment Rights Act (USERRA) and N.C.G.S. 127A-202.1 which provides certain re-employment rights and benefits for military personnel.

Leave shall be granted to employees of the College for certain periods of service in the uniformed services. No agent or employee of the College shall discriminate against any employee of the College or applicant for employment at the College because of their membership, application for membership, performance of service, application for service or obligation for service in the Uniformed Services.

Definitions

Following are definitions of terms used in this policy:

Term	Definition
Service in the Uniformed Service	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), and • a period for which a person is absent to determine fitness of the person to perform such duty. • service in or training for the National Disaster Medical System
National Guard	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	• 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. Also included are the Civil Air Patrol and State Defense Militia in accordance with the Special Provisions outlined at the end of this policy

Covered Employees

Full-time or regular part-time and employees are eligible for military leave.

Temporary, intermittent, and part-time (not regular) are not eligible for military leave.

Note: Although temporary employees are not eligible for military leave benefits, they are covered under the reinstatement policies.

Types of Military Leave

The policy and guidelines that follow are presented in six different sections to differentiate between the benefits applicable to the different types of leave. The sixth section covers reinstatement.

ACTIVE DUTY TRAINING AND INACTIVE DUTY TRAINING

Leave Options

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

- Active duty for training (annual training or special schools, including an authorized training program for the National Disaster Medical System)
- Inactive duty training (drills - usually on weekends)

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, annual/bonus leave or leave without pay.

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

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

annual/bonus leave. Example: An employee may be scheduled on a Friday, to take a convoy to a specific site. If significant travel is required, the employee may need to be released early on the day before training in order to accommodate the request for travel and reasonable rest. The employee is to 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.

Notification

The College may require the employee to provide notification of upcoming duty and/or schedule changes as soon as known.

PHYSICAL EXAMINATION

Leave With Pay for Physical Examination

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

RESERVE ACTIVE DUTY

Compensation

When ordered to State or Federal active duty, or as an intermittent disaster-response appointee upon activation of the National Disaster Medical System, the following shall apply for each period of involuntary service:

(1) Members shall receive up to thirty (30) calendar days of pay based on the employee's current annual salary.

This includes special activities of the National Guard, usually not exceeding one day, when so authorized by the Governor or his authorized representative.

(2) After the thirty-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.

When attending special activities of the National Guard, members shall receive up to one day of pay, when attendance at the special activity is authorized by the Governor or his authorized representative.

It is assumed that an employee had at least satisfactory performance when placed on military leave; therefore, any pay increases should be included in the differential pay.

Notification Required for Full Pay or Differential Pay

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

Leave Options

Prior to the 30 days of full pay and the differential pay, the employee may choose to have accumulated annual/bonus leave paid in a lump sum (maximum of 240 hours of

annual 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 - 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 annual leave. If the employee does not return to employment with the College, annual leave earned while on reserve active duty will be paid in accordance with the Annual Leave Policy.
Retirement - The employee shall receive retirement service credit for periods of service authorized in the Retirement System statute. (See Retirement System Handbook for further details.)
Effective July 1, 2009, differential pay meets the statutory definition of "compensation" for retirement purposes. Thus, retirement contributions should be reported to the Retirement System on differential pay.
Health Insurance - When on State duty, the College continues to pay for health coverage for members of the National Guard. When on Federal active duty, the College will pay for coverage in the State Health Plan for at least 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. If the employee chooses to exhaust annual leave, the College also pays for coverage while exhausting leave.

EXTENDED ACTIVE DUTY AND OTHER MILITARY LEAVE WITHOUT PAY

Periods Eligible

Military leave without pay shall be granted for all uniformed service duty that is not covered by military leave with pay defined in the above sections. Among the reasons are:

(1) Initial active duty for training (voluntary initial enlistment);
(2) Extended active duty (voluntary) for a period not to exceed five years plus any additional service imposed by law; (see Advisory Note on next page)
(3) Full time National Guard duty (usually a voluntary 3 year contract);
(4) 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.
(5) The period immediately following eligible period(s), as defined under “Reinstatement” of this policy, while reinstatement with the College is pending, provided the employee applies for such reinstatement within the time limits defined. (It is the employee’s responsibility to apply for reinstatement within the time limit defined.)

(6) 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 years beyond their release from extended active duty under honorable conditions. Also, the employee shall be entitled to leave without pay for the period from the time of release by the physician until actually reinstated in employment with the College, provided the employee applies for such reinstatement within the time limits defined.
(7) Duties resulting from disciplinary action imposed by military authorities;
(8) inactive duty training (drills) performed for the convenience of the member, such as equivalent training, split unit assemblies, make-up drills, etc.

The College is not required to excuse an employee for incidental military activities such as volunteer work at military facilities (not in duty status), unofficial military activities, etc., unless otherwise permitted by this policy.

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

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

Notification

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

Leave Options

Prior to going on LWOP, the employee may choose to have accumulated annual/bonus leave paid in a lump sum (maximum of 240 hours of annual 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 - During periods eligible for military leave without pay, the employee shall continue to earn time toward total State service if reinstated within the time limits outlined in the Reinstatement Section..

Longevity - If eligible, a longevity payment computed on a prorata basis shall be paid. The balance will 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 annual or sick leave. Leave is earned only when the employee is on leave with pay or on reserve active duty.

Retirement - The employee shall receive retirement service credit for periods of service authorized in the Retirement System statute. (See Retirement System Handbook for further details.)

Health Insurance - The College will pay for coverage in the State Health Plan for at least 30 days from the date of active service pursuant to the orders. If the employee chooses to exhaust annual leave, the College also pays for coverage while exhausting leave. 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.

CIVIL AIR PATROL AND STATE DEFENSE MILITIA

Civil Air Patrol

While the Civil Air Patrol is not a reserve component, 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 U.S. 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 (prorated for part-time employees) in any calendar year. Exceptions may be granted by the Governor. Such service may be verified by the Secretary of the Department of CCPS upon request by the employing agency. 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.

State Defense Militia

The State Defense Militia is considered a reserve to the National Guard, but it is not a reserve component of the U. S. 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 College employees entitled to military 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
- State duty for missions related to disasters, search and rescue, etc., again, only when ordered by the Governor or his authorized representative.

Under these conditions, an employee may be granted military leave not to exceed 120 hours (prorated 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.

Duty status may be verified with the Office of the Adjutant General, North Carolina National Guard, ATTN: Vice Chief of Staff - State Operations (VCSOP).

REINSTATEMENT

The College 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 the occurrence of either of the following:

(1) A separation with a dishonorable or bad conduct discharge.

(2) A separation under other than honorable 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.

Time Limits

The employee shall be responsible for returning, or making application for reinstatement, within the time limits defined below.

The time limit for submitting an application for reemployment or reporting back to work depends upon the length of uniformed service. If reporting back or submitting an application for reemployment within the specified periods is impossible or unreasonable through no fault of the employee, the employee must report back or submit the application as soon as possible thereafter. 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 Position

Reinstatement shall be to the position they would have likely achieved had they remained continuously employed (escalator position); or, if the period of uniformed service was in excess of 90 days, their escalator position, or one of like seniority, status and pay with the College. In the case of reemployment, such reemployment is to be promptly effective.

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.

Reinstatement Salary

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

It is assumed that an employee had at least satisfactory performance when placed on military leave; therefore, any pay increases should be included in the reinstatement pay.

References

Legal References: *1C SBCCC 200.94*

SACSCOC References: *Enter SACSCOC references here*

Cross References:

- Time Sheet Procedure
- Leave Policy
- Absence Report Procedure
- Annual Leave Procedure
- Bonus Leave Policy
- Civil Leave Policy
- Community Service Child Involvement Leave Policy
- Compensatory Leave Policy
- Educational Leave with Pay Policy
- Family Medical Leave Policy
- Leave Without Pay Policy
- Maternity Leave Policy
- Military Leave Policy
- Personal Leave Policy
- Sick Leave Policy
- Voluntary Shared Leave Program Policy

History

Senior Staff Review/Approval Dates: *11/6/13*

Board of Trustees Review/Approval Dates: *11/6/13*

Implementation Dates: *Enter date(s) here*