

NEW CASTLE COUNTY

PERSONNEL POLICY

NUMBER 3.13

PAGE 1 of 4

DATE 12/18/03

SUBJECT: MILITARY TRAINING LEAVE

APPROVED:



OBJECTIVE: To further define and explain the method by which an employee requests military leave, the status of employee benefits as a result of this leave and any other information pertinent to obtaining a military leave, in accordance with the Uniformed Services Employment and Re-employment Rights Act (USERRA).

STATEMENT: Military training leaves cover employees who are members of an armed forces unit or reserve component ordered to active duty training or who leave the service of New Castle County to join the military forces of the United States. There are several kinds of military training leave, each of which is handled differently. They are as follows:

A. Military Leave Up to Ten Days:

Eligibility: Must be a full-time, permanent or limited-term New Castle County employee and a member of the National Guard or an organized military reserve component of the United States.

Method of Request: An employee requests such leave by filing a copy of the military orders with the Office of Human Resources prior to the beginning of the leave. The request and the copy of the orders should be routed through the employee's department general manager or row officer who will forward both to the Office of Human Resources.

Benefit Status: A full-time, permanent or limited-term employee is permitted to receive normal salary up to ten working days per calendar year while on military training leave. An employee who is on initial probation shall be granted leave but will not receive any New Castle County salary for the period of the leave.

While on military leave not exceeding ten days, the employee will not be taken off the payroll. The payroll processor should mark the time entry reports as "ML." All benefits will continue to be in effect.

B. Military Training Leave for a Consecutive Period of Time Greater than Ten Days:

Eligibility: Must be a full-time, permanent or limited-term New Castle County employee and a member of the National Guard or an organized military reserve of the United States.

Method of Request: An employee requests such leave by filing a copy of the military orders and the request with the Office of Human Resources. The request and the copy of the orders should be routed through the employee's general manager/row officer who will forward both to the Office of Human Resources.

Benefit Status: For leaves not exceeding 30 calendar days, the employee will remain on active payroll status, and benefits will remain intact except that sick leave and vacation will not accumulate for any month(s) in which the employee has more than five days in unpaid status. The employee will not receive a New Castle County salary for any days exceeding the initial ten-day leave with pay. For an employee covered by the Local 459 collective bargaining agreement, leave without pay will be counted as an absence for the purpose of determining eligibility for personal leave days in accordance with that agreement.

For leaves longer than 30 calendar days, the employee will be removed from active payroll status on the first day of the leave.

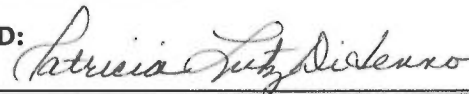
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1. Health Insurance -- This benefit will terminate effective the first day of the month following the beginning of the leave, unless the leave begins on the first day of a month, in which case coverage will cease immediately. Upon notification to the Pension and Benefits Section, coverage will resume on the first day of the month following the employee's return to active payroll status, unless the return from leave is on the first day of a month, in which case coverage will begin immediately. The employee may elect to continue health insurance coverage under the County group premium during the unpaid leave by making arrangements to pay for this coverage through the Pension and Benefits Section.
2. Life Insurance -- This benefit will terminate effective the first day of the leave and will resume the first day the employee returns to work.
3. Pension -- The employee will not accrue service credit for pension benefits during the period of the unpaid leave unless the required contributions are made.
4. Adjusted Pension Service Date -- Upon return from leave, the pension service date will be adjusted to reflect the length of the leave unless the required contributions are made to allow service credit for the period of the leave.
5. Sick Leave -- Sick leave will not accumulate for any month in which the employee has more than five days in unpaid status.
6. Vacation Credit -- The vacation service date will not be affected; however, vacation will not accumulate for any month in which the employee has more than five days in unpaid status.
7. Anniversary Date -- The anniversary date will not be affected. However, any performance evaluation which may be due at the time of the employee's return to work shall be delayed for 30 days after the employee returns to work. Any merit increase/pay step progression scheduled to occur during the leave will be implemented immediately upon the employee's return to work, provided the most recent performance evaluation was satisfactory or above.
8. Personal Leave Days (Local 459) -- For an employee covered by the Local 459 collective bargaining agreement, any leave without pay will be counted as an absence for the purpose of determining eligibility for personal leave days in accordance with that agreement.
9. Holiday Pay -- An employee on unpaid leave shall not receive holiday pay while on an unpaid leave of absence. If the first day of an unpaid leave follows a holiday, or if the last day of the unpaid leave precedes a holiday, the employee shall not be paid for the holiday in accordance with the various collective bargaining agreements, if applicable. If the employee is not covered by a collective bargaining agreement, the payment for a holiday (preceding or following an unpaid leave) will be at the discretion of the employee's department general manager or row officer.
10. Seniority -- Seniority will continue to accumulate during the period of the leave.

C. Emergency Duty:

Eligibility: Must be a full-time, permanent or limited-term New Castle County employee and a member of the Delaware National Guard or other military reserve component of the United States who is ordered to perform emergency duty under the supervision of the United States Government or the State of Delaware.

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Method of Request: As it is recognized by the County that orders for emergency duty may not be cut prior to the need for the employee to perform the emergency duty, the employee should forward a copy of the orders to perform emergency duty to the appropriate department general manager or row officer as soon as these orders are received. The department general manager or row officer should then forward a copy of the orders to the Chief Human Resources Officer.

Benefit Status: While on emergency duty, the employee will be paid the differential between the employee's normal County salary and the military pay, if the normal County salary is greater. The amount of salary differential is calculated to a maximum of 40 hours; however, in no case shall the employee be paid in excess of the number of hours normally worked. In other words, an employee who normally works 35 hours per week will have the differential calculated based on 35 hours. The employee is not placed on a leave of absence, but the payroll processor should mark the time entry report as "ML" for the days of the employee's absence. Any merit increase/pay step progression scheduled to occur during the leave will be implemented immediately upon the employee's return to work, provided the most recent performance evaluation was satisfactory or above. Other benefits are not affected and should be continued as if the employee were not absent

D. Leave to Join the Military Service (generally handled as a resignation with re-employment rights):

Eligibility: Must be a full-time, permanent or limited-term New Castle County employee.

Method of Request: An employee who voluntarily or involuntarily joins the military forces of the United States should request a leave of absence, to include a copy of the orders, through the appropriate department general manager or row officer to the Office of Human Resources.

Benefit Status: Seniority will continue to accrue. The vacation service date and anniversary date will not be affected. Any merit increase/pay step progression scheduled to occur during the leave will be implemented immediately upon the employee's return to work, provided the most recent performance evaluation was satisfactory or above. Any performance evaluation which may be due at the time of the employee's return to work shall be delayed for 30 calendar days after the employee returns to work. Life insurance and health insurance will be terminated. Sick leave and vacation will not accrue for any months in which the employee has more than five days in unpaid status. Pension credit will not accumulate for the length of the leave unless the employee makes the required contributions. Although the employee is technically on an unpaid leave of absence, for administrative purposes, the employee will be terminated from the County payroll during the period of the leave.

Payroll Status: At the time the employee is separated from the County payroll, all accumulated vacation pay and sick pay, if applicable, will be paid as though the employee resigned in good standing. In addition, if the employee has at least 90 days service with the County, one full calendar month's wages shall be paid. This is interpreted as four weeks pay.

The benefit status described above regarding seniority, vacation service date, anniversary date and merit increase/pay step progression, as well as the benefit of re-employment rights, will only apply to employees whose length of military service does not exceed five years, and if the service in excess of four years is at the request and for the convenience of the Federal Government (pursuant to Federal Statute 93-508, Section 2024[a]).

Re-employment: Within the applicable time period stipulated in the law based on length of service, written notice to return to work must be formally submitted to New Castle County if the employee desires to return to work. The employee must be physically and mentally able to perform the duties of the former

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position. Failure to indicate in writing the employee's readiness, willingness and ability to return to County employment within the specified time period after an honorable discharge will be considered a forfeiture of re-employment rights. This will result in termination in good standing with all severance benefits. Upon return from military leave of absence, the employee shall be reinstated to a position in the same class with the same seniority held at the time the leave was granted and the appropriate pay step progressions will be implemented for any anniversary date(s) that may have occurred during the leave, provided that such reinstatement does not necessitate the laying off of another employee with greater seniority. In the event a position in the same class is not available, the employee may be returned to a vacant position in a comparable class for which the employee is qualified. If a comparable position is not available, placement may be made in a position of a lower class and/or on a preferred re-employment list. Placement in a lower class shall constitute an administrative demotion.

REQUIRED ACTION: The Chief Human Resources Officer, department general managers, and row officers shall be responsible for the implementation of and compliance with this policy.

Established: 07/14/87
Revised: 01/01/96
Revised: 07/01/97
Revised: 05/01/01
Revised: 12/18/03