

PERSONNEL SERVICES BULLETIN

440-11R
PSB No.

Subject: Leaves of Absence for Military Duty

Supersedes: Personnel Services Bulletin No. 440-11

Source: New York State Military Law, Article XI, Section 242

Date: April 20, 2012

I. Policy

Section 242 of the New York State Military Law provides paid leave for an employee-reservist who performs "ordered military duty" on normally scheduled work days. "Ordered military duty" is defined as:

Any military duty performed in the service of the state or of the United States, including but not limited to attendance at any service school or schools conducted by the armed forces of the United States, by a public officer or employee as a member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States, pursuant to orders issued by competent state or federal authority, with or without the consent of such public officer or employee. Participation in routine reserve officer training corps training is not considered to be military duty except when performing advanced training duty as a member of a reserve component of the armed forces.

- A. A City employee is entitled to a leave of absence while engaged in the performance of "ordered military duty" as defined in the State Military Law, while going to and returning from such duty, and where otherwise required by law.
- B. A City employee is entitled to receive his/her City salary while on leave for "ordered military duty." This includes travel to and from such duty. The total number of days that the employee may continue to receive his/her salary while on "ordered military duty" is not to exceed 30 normally scheduled work days in any one calendar year and not to exceed 30 normally scheduled work days in any one continuous period of absence.
- C. To the extent practicable, an employee's normal work schedule should be drafted to avoid conflicting with drills scheduled during an employee's working hours.
- D. In accordance with any applicable leave regulations and at the discretion of the agency head, an employee who has exhausted his/her statutory entitlement to be paid a salary during a period or periods of authorized military leave may be granted use of accumulated annual leave balances during any additional period or periods of "ordered military duty." An employee wishing to exercise this option must make this request in writing to the agency head.

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- E. An employee who has exhausted his/her statutory entitlement and who has been called up for "ordered military duty" may be eligible for enrollment in the Extended Military Benefits Program (EMBP). To qualify, an employee must be performing "ordered military duty" in connection with a covered operation. Covered operations are those military operations designated by the federal government of the United States, in support of "Operation Enduring Freedom," "Operation Iraqi Freedom," "Operation Noble Eagle," or successors thereto, or operations specifically connected by federal designation, action or implication with homeland security. An employee who participates in the EMBP shall receive the difference between his or her City salary and military pay where the military pay is less than the City salary, during the period of coverage. An employee whose military pay is greater than his or her City salary will not receive any differential pay, but if such employee is serving in a covered operation, will continue to accrue leave balances and continue his or her preexisting healthcare benefits.

II. Procedure

Each agency head must designate an Agency Military Liaison Officer and notify the Commissioner of the Department of Citywide Administrative Services promptly, in writing, of such designation. The name of the designee and his/her contact information should be included in the notification. The same procedure is to be followed whenever the Agency Military Liaison Officer is replaced.

- A. Agency Military Liaison Officers must adhere to the following procedures:
 - 1. A separate roster must be maintained of agency employees who are currently members of the organized militia or of one of the reserve components of the Armed Forces of the United States.
 - 2. The roster must be organized by reserve unit and include the name, rank, service number, Social Security number and expiration date of current enlistment for each employee.
 - 3. The monthly military roster report no longer needs to be sent to the Department of Citywide Administrative Services. However, all appropriate records must be kept and are subject to audit by the Department of Citywide Administrative Services.
 - 4. The Agency Military Liaison Officer must also obtain a copy of each employee-reservist's Enlistment Contract from each non-commissioned employee-reservist, and its equivalent (a Service Agreement) from each employee-reservist who is a commissioned officer. This contract or agreement specifies the number of drills the employee is obligated to participate in, and the duration of the contract or agreement.
 - 5. The Agency Military Liaison Officer must also obtain from the employee-reservist a copy of his/her quarterly drill schedule. Quarterly drill schedules are usually prepared two months in advance. If the employee fails to provide quarterly drill schedules, an Enlistment Contract or Service Agreement, then the Agency Military Liaison Officer should inform the employee that payment of his/her salary for periods of ordered military duty will not be granted until all the relevant required documents have been submitted.

Employee-reservists who apply for leave to perform military duty that occurs on a date different from the date(s) set forth in the quarterly drill schedule must submit a copy of the order issued by the state or federal authority requiring such service.

- 6. If, in the judgment of the Agency Military Liaison Officer, an employee-reservist is regularly volunteering to be ordered to duty at unscheduled times solely in order to maximize absence from City employment to the detriment of the public interest, and a request that the employee

desist from this practice is unsuccessful, the matter should be brought to the attention of the appropriate military commander in an attempt to obtain a more satisfactory and mutually acceptable schedule of "ordered military duty" for the employee.

7. The Agency Military Liaison Officer must obtain a Certificate of Attendance and/or Pay Voucher from each reserve member upon the employee's return from reserve duty. This document must be signed by the Unit Commander, or his/her designated representative, in order for payment of salary to be authorized by the agency.
8. The Agency Military Liaison Officer should notify employee-reservists that, except where it is unreasonable to do so, military leave must be applied for as far in advance as possible.
9. The Agency Military Liaison Officer must maintain a file on each employee-reservist's attendance records and requests for military leave. On each authorization for paid military leave, the Agency Military Liaison Officer must affirm that the procedures contained in this bulletin have been complied with, and that all required documents have been received.

B. Computation of Leave Entitlement

1. Due to differences in normally scheduled work days in a number of City agencies, the 30 work day entitlement for normally scheduled work days will be converted into an hourly bank against which charges will be made on an hour for hour basis.
2. Only those hours the employee is actually absent during the normal work day are to be charged against the hourly bank for purposes of computing the 30- work-day entitlement.
3. Ordered military duty will be charged against the annual balances on a work day basis until the 30-work-day entitlement has been exhausted.
4. In order to make charges against the 30-work-day entitlement, an hourly bank must be established by multiplying the 30 work days by the number of hours in the normally scheduled work day of each employee-reservist.

Example: An employee whose normally scheduled work day is 7 hours, or whose normally scheduled work week is 35 hours, would have an hourly bank of 210 hours (30 x 7) established at the beginning of the calendar year. An employee with a 7.5 hour work day and a 37.5 hour work week would have 225 hours (30 x 7.5) at the beginning of the calendar year.

The hourly formula must be applied to all normally scheduled work days.

Edna Wells Handy
Commissioner

Sample Computations

The following is an example of the method of computation to be used to charge paid military leave under Section 242 of the New York State Military Law. The example is based on a normally scheduled seven-hour work day with Saturday and Sunday as days off. Other work schedules should be dealt with in an analogous manner.

A. An employee-reservist is ordered to 12 calendar days of military training in May. Eight of the calendar days are work days. The resulting paid military leave balance is recorded as follows:

Hourly Bank	
Starting Balances:	210
Used to Date:	-56
Resulting Balances:	154

B. The same employee-reservist is ordered to two continuous weeks of training in July. Ten of the calendar days are work days. Paid military leave is charged as follows:

Hourly Bank	
Starting Balances:	154
Used to Date:	-70
Resulting Balances:	84

C. The same employee-reservist is ordered to a three-day drill (Friday through Sunday) in August. Paid military leave is charged as follows:

Hourly Bank	
Starting Balances:	84
Used to Date:	-7
Resulting Balances:	77

D. The same employee-reservist is ordered to a three-hour meeting during a work day in September. Paid military leave is charged as follows:

Hourly Bank	
Starting Balances:	77
Used to Date:	-3
Resulting Balances:	74

This employee-reservist should now be charged for paid military leave only against the remaining work day balance of 74 hours. When the balance calculated reaches zero, the employee-reservist is no longer entitled to paid military leave. Any further leave granted should be without pay or may be charged against the employee's accrued annual leave balances at the employee's written request.

If the employee-reservist returns to work from ordered military duty before the end of the calendar year with a work day balance and is not ordered to military duty until the next calendar year, the balance does not remain to the employee-reservist's credit. At the beginning of the new calendar year paid military leave entitlement once again becomes 30 normally scheduled work days, converted to the appropriate hourly bank, to be charged against these balances in accordance with the policy set forth above.