

Section 7-16.7:2 Military reserves leaves of absences; notice required; availability of paid leave; supplemental pay; health benefits; no break in service; plan contributions; re-employment federal military reserves; re-employment Virginia military reserves; restored to same position; termination after re-employment; discrimination prohibited. —

A. Any employee of Suffolk Public Schools who is a member of the state or federal military reserves is entitled to leaves of absence from their duties on all days during which they are engaged in federally funded military duty, including training duty, or when called forth by the Governor.

B. Immediately upon receipt of official notice to report for duty, the employee will notify Human Resources of the need for military leave. A copy of the official orders must accompany the leave request.

C. All employees on military leave receive up to 15 days paid leave for federally funded tour of duty. When possible, military leave for employees on less than a 12-month contract should be arranged during non-duty hours. An employee who is scheduled for a physical examination for military service during working hours, including but not limited to pre-induction physicals, receives paid leave.

D. Employees of Suffolk Public Schools, whose active duty service with the regular armed forces of the United States or the National Guard or other reserve component has required their absence from full-time employment with Suffolk Public Schools, will have their military pay supplemented by Suffolk Public Schools in an amount that will enable the employee's total pay to be equal to the employee's base pay with Suffolk Public Schools, not including supplements and stipends, if the employee's military compensation is less than the regular salary paid to the employee by Suffolk Public Schools. Military leave is unpaid for all part-time, temporary and substitute employees of Suffolk Public Schools.

E. If the employee so desires, the employee and the employee's dependents may continue to participate in the division's group health plan for up to 24 months while the employee is on military leave. The employee must notify Human Resource Department if the employee wants to continue participation in the division's group health plan. Employees who elect to continue on the division's health plan will be responsible for the following payments: Employee deduction amount for the health and or dental care costs during leave of absence. Supplemental insurances would be billed separately by the benefiting company.

F. An employee reemployed after military leave will be treated as not having incurred a break in service. The period of military leave will be considered service to the division for purposes of vesting and benefit accrual. Vesting and accrual of benefits under retirement plans, particularly VRS and creditable service determinations are subject to the rules and regulations of the VRS and payment by the employee of their portion owed for service credit allowed. The division is responsible for its pension plan funding obligation. The division is not required to make its contribution until the employee is reemployed.

G. The employee is allowed, but not required, to make up the employee's contributions to a contributory plan. The employee may repay employee contributions for a period of up to three times the period of military service, but not to exceed five years. If the employee's retirement plan is contributory and the employee does not make up the employee's contributions, the employee will not receive the employer match or the

accrued benefit attributable to the employee's contribution because the employer is required to make contributions that are contingent on the employee's contributions. The employer and employee contribution will be calculated on the rate of pay the employee would have received but for the absence to serve military duty.

H. An employee who is entitled to military leave by reason of service in the federal military reserves is entitled to be reemployed by the School Board as long as the employee;

- (1) has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);
- (2) has not been absent for more than five years; and returns to work as outlined below;
 - (i) If the employee was absent from work for less than 31 days, the employee must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest and report to work;
 - (ii) more than 30 days but less than 181 days, the employee must submit an application for reemployment within 14 days after the completion of service;
 - (iii) more than 180 days, the employee must submit an application for reemployment within 90 days after the completion of service.

I. Employees who are entitled to military leave due to service in the Virginia military reserves must make written application for reemployment within (a) 14 days of release from duty or from hospitalization following release if the length of the employee's absence by reason of service in the uniformed services does not exceed 180 days; or (b) 90 days of release from duty or from hospitalization following release if the length of the employee's absence by reason of service in the uniformed services exceeds 180 days.

J. Upon returning from duty, an employee will be restored to the same job he the employee held before leaving or to a comparable job. The School Board is not obligated to reemploy persons returning from military leave in certain unusual situations specified by state and federal law.

K. A person who is reemployed after returning from more than 30 days of military duty will not be discharged except for cause (a) within one year after the date of reemployment, if the person's period of military service before the reemployment was more than 180 days; or (b) within 180 days after the date of reemployment, if the person's period of military service before the reemployment was more than 30 days but less than 181 days.

L. Members of the military reserves will not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership.

Legal Authority — 38 U.S.C. §§ 4312, 4313, 4316, 4317. 20 C.F.R. §§ 1002.259, 1002.261, 1002.262, 1002.267; §§ 22.1-289.2, 44-93, 44-93.1, 44-93.3, 44-93.4, 44-102.1. Code of Virginia, 1950, as amended,