

Military Leave

1.0 Purpose

To summarize the obligations of Bladen County under the Uniformed Services Employment and Reemployment Rights Act of 1994. The purposes of USERRA are two-fold: to allow Americans to serve in the United States armed forces with minimum disruption to their civilian careers and to prohibit discrimination against those who have served in the uniformed services.

2.0 Applicability

To all regular Bladen County employees who are members of the National Guard or Armed Forces Reserve.

3.0 Definitions

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 fifteen (15) days 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)
- a period for which a person is absent to determine fitness of the person to perform such duty.
- 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, and any other category of persons designated by the President in time of war or national emergency.

National Guard Service - 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.

4.0 Policy

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

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4.1 Notification

Military leave granted pursuant to this policy must be supported by appropriate documentation. The employee shall submit an order or written statement to the employee's department head from the appropriate military officer as evidence of duty for which military leave with pay is requested. Since individual orders are not issued to members of the National Guard, a statement from the commanding officer shall be sufficient. In lieu of a written statement, such leave may be verified through the Office of the Adjutant General.

Such leave shall be recorded in the employee's leave record and be designated as military leave. For periods eligible for military leave with differential pay, the County shall require the employee to provide a copy of their Leave and Earnings Statement or similar document issued by the National Guard to cover the eligible period of differential pay in excess of 15 days.

5.0 Military Leave with Pay

An employee who is a member of the Uniformed Services will be allowed fifteen (15) working days of military leave annually, with pay for:

- active duty for training (including annual training or special schools)
- inactive and initial active duty training upon call-up (mobilization) or order to Federal active duty for an employee in one of the Reserve Components.

6.0 Military Leave with Differential Pay

If such military duty is required beyond this period, of 15 working days, the employee will be offered extended military duty leave. If the compensation received while on extended military duty is less than the salary that would have been earned during this same period as an active employee, the employee shall receive differential compensation equal to the difference between the base salary earned as a reservist and the salary that would have been earned during this same period as a county employee. The effect will be to maintain the employee's salary at the normal level during the period of extended military duty.

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7.0 Retention and Continuation of Benefits during Leave With Pay

During the period of military leave with differential pay, the employee shall not incur any loss of total County service or retirement service or suffer any adverse service rating. The employee shall continue to accumulate sick and vacation leave, total County service credit, and receive any promotion or salary increase for which otherwise eligible.

While on military leave with pay or differential pay, the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the County during this period. Insurance premiums will be paid by the county for the employee for a period up to eighteen months (18). If the period of time exceeds eighteen months, a special review by the County Manager will be made to the County Commissioners for purposes of prolonging the period of time in which the insurance for the employee is paid. This will be done on a case by case basis as necessary. Employees who are reservists have all job rights specified in the Veterans Readjustment Assistance Act.

8.0 Military Leave without Pay

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

- extended active duty for a period not to exceed five years plus any additional service imposed by law (see note below);
- full time National Guard duty (usually a 3 year contract);
- initial active duty for training (initial enlistment) except as noted in 5.1 above;
- designation of any other category of persons by the President in time of war or national emergency.

The following absences may be taken as leave without pay or as available annual leave, or a combination of the two, at the employee's option:

- duties resulting from disciplinary action imposed by military authorities;
- inactive duty training (drills) performed for the convenience of the member, such as equivalent training, split unit assemblies, make-up drills, etc.;
- take a required physical examination to determine fitness for duty in the uniformed services;
- to perform funeral honors duty.

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Note: Service in the uniformed services, except the types of service listed below, counts toward the cumulative 5-year limit of military service a person can perform while retaining reemployment rights: 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, 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

9.0 Additional periods of military leave without pay

Leave without pay shall also be granted in the following situations:

- 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.
- The period immediately following eligible period(s) of active duty, as defined under “Reinstatement From Military Leave Without Pay” of this policy, while reinstatement with Bladen County 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.
- 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 County employment, provided the employee applies for such reinstatement within the time limits defined.
- Initial active duty for training (voluntary initial enlistment);
- Extended Active Duty (voluntary) for a period not to exceed 5 years plus any additional service imposed by law (See note at top of page);
- Full time National Guard Duty (usually a voluntary 3 year contract);
- Duties resulting from disciplinary action imposed by military authorities;
- Inactive duty training (drills) performed for the convenience of the member, such as equivalent training, split unit assemblies, make-up drills, etc.

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- Agencies are 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.

Employee Responsibility

The employee or an appropriate officer of the military service in which such service is or is to be performed shall provide written or verbal notice of such service as soon as it is known. The employee shall be responsible for returning, or making application for reinstatement, within the time limits defined under “Reinstatement from Military Leave Without Pay.”

10.0 Retention and Continuation of Benefits during Leave Without Pay

The employee may choose to have accumulated vacation leave: exhausted, or retained (part or all) until return to County service.

The employee shall:

- Retain accumulated sick leave
- Continue to earn time toward total County service, and
- Receive retirement service credit for periods of active duty up to the time the employee was first eligible for discharge if the employee returned to County employment within two years; or any time after discharge if they had completed at least ten years of membership service in the Retirement System. (See Retirement System Handbook for further details.)
- If eligible, a longevity payment computed on a prorated 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.

The employee may elect to continue employer-sponsored health care through COBRA for a period of up to 18 months; however, the employee must pay the full premium for periods in excess of **18** months unless extended county pay coverage is authorized as specified in section 5.2 (Retention and Continuation of Benefits).

11.0 Reinstatement from military leave without pay

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

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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:

- 11.1.1 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;
- 11.1.2 more than 30 days but less than 181 days, must submit a written or verbal application for reemployment with the agency not later than 90 days after the completion of the period of service; or,
- 11.1.3 more than 180 days, by submitting an application with the agency not later than 90 days after the completion of the period of service.

12.0 Reinstatement shall be made if the employee:

Separated/discharged from military service under honorable conditions, and reports to work or applied for reinstatement within the established time limits.

13.0 Reinstated 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 180 days, their escalator position, or one of like seniority, status and pay with the same department or with another County department. 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 position cannot be performed, the employee shall be reinstated to a position most nearly comparable to the position, with duties compatible with the disability and without loss of seniority.

14.0 Reinstated Pay:

The employee's salary upon reinstatement shall be based on the salary rate applicable to the proper position. In no case will the reinstated employee's salary be less than when placed in a military leave status. If the employee was in trainee status at the time of military leave, the addition of trainee adjustments may be considered, at the discretion of the department head, if it can be determined that military experience was directly related to development in the area of work to be performed in the County position. The addition of trainee adjustments

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must be made if it can be shown that progression within or through such status is based merely upon the passage of time with satisfactory performance.

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.