

13.6 Military Leave of Absence

~~a. Eligible full-time employees of the County of Solano who are called to temporary or active military duty are entitled to thirty (30) calendar days paid leave for military duty per fiscal year, pursuant to California Military and Veterans Code, Section 395.01. A request for military leave of absence shall be made upon forms prescribed by the Director of Human Resources or his/her designee, shall include a copy of the employee's military orders, and shall include the date such military leave is to begin and the probable date of return. All employees shall be entitled to military leave of absence and compensation as provided in Section 395.02 of the Military and Veterans' Code of the State of California to the greater of either said law/code or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave (excludes Inactive Duty) per fiscal year for each hour in which the employee was otherwise scheduled to work.~~

~~Upon approval of the employee's supervisor, employees called to inactive duty may change their scheduled days off to coincide with the dates of inactive duty.~~

~~b. An employee who resigns in order to enter military service shall have the right to return to County employment after the termination of his/her active military service as provided by Section 395.3 of the California Military and Veterans' Code and Title 38 U.S. Code, Chapter 43 (Veterans' Reemployment Right).~~

~~c. An employee shall be given preference over all other applicants for the opening in his/her class and department next available after filing with the Director of Human Resources or his/her designee a written request to return to County employment and shall be reemployed no later than 90 days from the receipt of said request.~~

~~d. Upon reemployment he/she shall be entitled to such civil service status as he/she would have if he/she had not resigned (e.g., any seniority for purposes of layoff would continue to accrue during his/her absence and he/she would not need to serve a new probationary period in his/her former department and class if he/she had attained permanent status prior to leaving County service). His/her salary upon reentering County service in his/her former classification shall be at the same step he/she occupied at the time of his/her separation. Subsequent merit increase eligibility dates shall follow the normal time progression between steps (as provided in Section 5.4, Merit Increases Within Range of this MOU).~~

~~e. In all other respects (e.g., step increases and benefits eligibility accrual and use) he/she shall be treated as a new employee.~~

~~f. No former employee shall have this right of reemployment under this Section who:~~

- ~~1. Is not qualified to perform the duties of the position (i.e., fails to pass a physical examination);~~
- ~~2. Is released from active duty for reasons other than honorable;~~

- ~~3. Fails to make written application for reemployment with the County within six (6) months of his/her release; or~~
- ~~4. Refuses upon request to provide true copies of any documents which he/she may be asked to provide in order to substantiate the period and kind of his/her military service, the circumstances of his/her release from such service and other information which is deemed necessary by the County in order to evaluate his/her application for reemployment.~~

B. Military Leave

All employees shall be entitled to military leave of absence and compensation as provided in California Military and Veterans Code Section 395-395.02 to the greater of either said law/code or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave (excludes Inactive Duty such as weekend drills) per fiscal year for each hour in which the employee was otherwise scheduled to work.

Employees on Active Duty exceeding one hundred ninety (190) hours may receive "Supplemental Military Pay" up to the "Maximum Duration of Time," as defined in this ~~Section side letter agreement~~. Supplemental Military Pay for time past 190 hours can be used for only one deployment during the term of this ~~MOU side letter agreement~~.

The eligible employee must elect to receive Supplemental Military Pay ~~by no not~~ later than the seventh (7th) calendar day of the employee's military leave, otherwise the employee shall not be eligible for Supplemental Military Pay during that particular deployment.

C. Eligibility

To be eligible for this benefit, the employee must have been employed by Solano County for a period of not less than one year immediately prior to the date upon which ~~his/her~~ **the employee's** military leave of absence begins. In determining the one-year of public agency service, all recognized military service is considered as public agency service.

An employee on Active Duty on the effective date of this Agreement, and who exhausted paid military leave pay in accordance with Military and Veterans Code Section 395-395.02 during that same fiscal year is eligible under this Agreement, even though the effective date of this Agreement occurs *after* the employee's Active Duty military service began. Timelines in this Agreement related to electing to receive supplemental military pay, submission of military pay documentation, and any other due dates are based on the effective date of this Agreement for those employees who are on Active Duty on the effective date of this Agreement.

D. Compensation

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1. Any eligible employee who is on military leave of absence, shall be entitled to compensation as provided in California Military and Veterans Code Section 395-395.02 to the greater of said law/code or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave (excludes Inactive Duty such as weekend drills) per fiscal year for each hour in which the employee was otherwise scheduled to work.
2. Following exhaustion during the fiscal year of the greater of Military and Veterans Code Section 395-395.02 compensation or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave, the eligible employee may receive "Supplemental Military Pay."

- a. **"Supplemental Military Pay"** is defined as the difference in the employee's (Higher Paid) base County salary and the employee's (Lower Paid) base military salary. The employee's base County salary shall be identified by referring to the County's "Listing of Classes and Salaries" in effect on the first day of active military leave, and no incentive pays such as POST Pay, bilingual differential, or similar factors shall be considered. This calculation is made as of the first day of the employee's active military leave for that particular deployment and shall not be adjusted during the deployment, **even if a general wage increase occurs during the deployment.** The employee must furnish to ~~his/her~~ **the** department a copy of ~~his/her~~ **the employee's** military pay (e.g., through a military pay stub which documents the base pay rate) within thirty (30) calendar days of ~~his/her~~ **the employee's** deployment.

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Supplemental Military Pay is earnings and subject to payroll taxes (e.g., Medicare, Social Security, income taxes), recognized employee association/union dues, deferred compensation contributions, garnishments, and all other deductions in effect on the calendar day immediately prior the start of Supplemental Military Pay with the exception of CalPERS retirement (see Benefits).

3. At the beginning of the next fiscal year, the eligible employee will again receive the greater of California Military and Veterans Code Section 395-395.02 or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave.
4. The **"Maximum Duration of Time"** for Supplemental Military Leave is defined as eighteen (18) months (**see subsection (C)(4)(a) below**) less those periods of the greater of California Military and Veterans Code Section 395-395.02 or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave. (**See subsection (C)(4)(b) and (c) below.**)
 - a. **As an example, if an employee's military orders state that the employee will be deployed for eleven (11) months, then the Maximum Duration of Time is eleven (11) months. Or, as an example, an employee's military orders state that the**

employee will be deployed for twenty (20) months, then the Maximum Duration of Time is eighteen (18) months.

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b. Example A: Employee begins Active Duty military leave on July 1, 2020 and receives the greater of M&VC Sections 395-395.02/190 hours, begins Supplemental Military Pay on approximately August 1, 2020 for approximately 11 months, receives M&VC Sections 395-395.02/190 hours again on July 1, 2021, continues Supplemental Military Pay on approximately August 1, 2021 and the Supplemental Military Pay stops on approximately January 31, 2022 as the total of M&VC Sections 395-395.02/190 hours+ Supplemental Military Pay+ M&VC Sections 395-395.02/190 hours+ Supplemental Military Pay equals eighteen (18) months.

c. Example B: Employee begins Active Duty military leave on April 1, 2020 and receives the greater of M&VC Sections 395-395.02/190 hours, begins Supplemental Military Pay on approximately May 1, 2020 for approximately 2 months, receives Active Duty military leave on July 1, 2020 and receives the greater of M&VC Sections 395-395.02/190 hours, begins Supplemental Military Pay on approximately August 1, 2020 for approximately 11 months, receives M&VC Sections 395-395.02/190 hours again on July 1, 2021, continues Supplemental Military Pay on approximately August 1, 2021 and the Supplemental Military Pay stops on approximately November 30, 2021 as the total of M&VC Sections 395-395.02/190 hours + Supplemental Military Pay + M&VC Sections 395-395.02/190 hours + Supplemental Military Pay+ M&VC Sections 395-395.02/190 hours+ Supplemental Military Pay equals eighteen (18) months.

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5. The eighteen (18)-month period continues to run during times when an employee is not receiving Supplemental Military Pay but is instead receiving the greater of California Military and Veterans Code Section 395-395.02 or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave.
6. An employee not receiving pay under the greater of Military and Veterans Code Section 395-395.02 or one hundred ninety (190) hours of paid Temporary or Active Duty Military Pay, or the Supplemental Military Pay may use ~~his/her~~ the employee's eligible accrued leaves (e.g., vacation, compensatory time off, administrative leave, attorney time off) (sick leave is not an eligible leave).

E. Benefits

1. During periods of pay during the greater of Military and Veterans Code Section 395-395.02 or one hundred ninety (190) hours of paid Temporary or Active Duty Military Leave, the employee's benefits which were active on the prior calendar day shall continue (with the County and employee continuing to pay their own respective share of said continued benefits).

2. During periods of Supplemental Military Pay **the following apply:**

- a. Health insurance coverage will continue, with both the County and the employee contributing their own respective shares.
- b. ~~During periods of Supplemental Military Pay e~~ Employees are not eligible to receive cafeteria plan "waive money" or "cash back." The employee may elect to continue other benefits which are subject to COBRA provisions by enrolling in said benefits during the COBRA election/enrollment period.
- c. ~~During periods of pay of Supplemental Military Pay, t~~ The employee shall not receive County paid holidays, and **shall** not receive accrued time off (such as vacation, sick leave, administrative leave, attorney time off, nor any accruals).
- d. Unless otherwise directed by CalPERS law or regulation, ~~during periods of Supplemental Military Pay,~~ the employee does not receive CalPERS service credit and neither the County nor the employee pay into the CalPERS retirement system.

F. Other

1. A probationary employee or a promotional probationary employee on military leave shall be required complete the balance of ~~his/her/their~~ probationary period upon ~~his/her~~ **the employee's** return to work.
2. An eligible employee who is receiving pay under this program shall continue to receive service credit for the purposes of determining duration of County service. An eligible employee who is receiving pay not under this program but rather through the use of ~~his/her~~ **the employee's** accrued leaves shall receive service credit for the purposes of determining duration of County service. An employee who is not receiving pay does not receive service credit for the purpose of determining duration of County service.
3. Upon approval of the employee's supervisor, employees called to inactive duty may change their scheduled days off to coincide with the dates of inactive duty.
4. An employee shall be given preference over all other applicants for the opening in ~~his/her~~ **their** class and department next available after filing with the Director of Human Resources or ~~his/her~~ **their** designee a written request to return to County employment and shall be reemployed no later than **ninety (90)** days from the receipt of said request.
5. Upon reemployment ~~he/she~~ **they** shall be entitled to such civil service status as ~~he/she~~ **they** would have if ~~he/she~~ **they** had not resigned (e.g., any seniority for purposes of layoff would continue to accrue during ~~his/her~~ **their** absence and ~~he/she~~

they would not need to serve a new probationary period in ~~his/her~~ their former department and class if ~~he/she~~ they had attained permanent status prior to leaving County service). ~~His/her~~ Their salary upon reentering County service in his/her former classification shall be at the same step ~~he/she~~ they occupied at the time of ~~his/her~~ their separation. Subsequent merit increase eligibility dates shall follow the normal time progression between steps (as provided in Section 5.4, Merit Increases Within Range of this MOU).

6. In all other respects (e.g., step increases and benefits eligibility accrual and use) ~~he/she~~ they shall be treated as a new employee.
7. No former employee shall have this right of reemployment under this Section who:
 - a. ~~Is not qualified to perform the duties of the position (i.e., fails to pass a physical examination);~~
 - b. ~~Is released from active duty for reasons other than honorable;~~
 - c. ~~Fails to make written application for reemployment with the County within six (6) months of ~~his/her~~ their release; or~~
 - d. ~~Refuses upon request to provide true copies of any documents which ~~he/she~~ they may be asked to provide in order to substantiate the period and kind of ~~his/her~~ their military service, the circumstances of ~~his/her~~ their release from such service and other information which is deemed necessary by the County in order to evaluate ~~his/her~~ their application for reemployment.~~

Commented [BD5]: Existing contract language