

Supreme Court of Colorado

Office of the Chief Justice

Temporary Policy for State Employees Called to Active Duty As Part of Operation Enduring Freedom

Intent: The following policy is to temporarily extend administrative leave and annual leave-sharing programs to employees called to active duty as a result of the September 11 terrorist attacks.

Effective: The revised policy is retroactive to the date an employee was called to active duty for the campaign. The intent is to allow temporary relief for those called to serve in Operation Enduring Freedom while they get their financial affairs in order.

Applicability: This policy applies to employees who have been called to active military service for Operation Enduring Freedom. It does not apply to regular obligations, e.g., other emergencies, training, or annual encampment.

Policy: As a result of the September 11, 2001 terrorist attacks against our nation, some Colorado Judicial Department employees have been or may be called to active military service. The Colorado Judicial System Personnel Rules provide administrative authorities the discretion to grant administrative leave to state employees for reasons determined to be for the good of the state. This directive shall allow administrative authorities the discretion to grant administrative leave to state employees called to active military service in connection with September 11th. The purpose of this administrative leave is to make the salaries of these employees “whole” for a period of 90 calendar days after their military paid leave is exhausted to help relieve some of this hardship.

Granted administrative leave is to make up the difference between the employee’s military gross pay and the current state gross salary, excluding any pay differentials, for a period not to exceed 90 calendar days. The employee must furnish proof of military gross pay in order to receive this administrative leave.

This administrative leave begins upon exhaustion of the balance of the 15 days of paid military leave for which an employee is eligible, and is retroactive to the date when the employee received orders following the September 11th attacks. After exhaustion of this administrative leave, the employee can still elect to use accrued annual leave and compensatory time.

Additional Guidance on the Temporary Expansion of Leave Sharing

As an additional measure of relief, I hereby authorize and encourage administrative authorities to allow for the donation of annual leave for employees on active military service. This additional leave may only be used after exhaustion of military leave, administrative leave, and any annual leave and compensatory time.

Districts are authorized to expand leave-sharing programs to include employees on active military duty. Leave sharing is not an entitlement. No appeals or grievances are permitted.

Unlike leave sharing for catastrophic illness, donated leave for the purposes of military service cannot be transferred between agencies or institutions of higher education and is on a “make whole” basis following the exhaustion of military, administrative, and any annual leave and compensatory time. The agency may also want to consider other adjustments such as tracking the donated leave for military service separately from the regular donated leave, establishing the maximum amount of leave that will be granted for military service.

Questions and Answers on the Temporary Revised Policy

Q1. Can an employee have more than one period of military leave?

A1. Because the 15 days of military leave is granted on a calendar year basis, it is possible to have more than one block of military leave depending on the length of service. For example, assume the employee was called to active duty on September 12 for one year and has five days of military leave remaining for 2001. On January 1, 2002, the employee would again be placed on military leave for 15 working days.

Q2. How does the administrative leave work in conjunction with military leave, especially if it falls into a new calendar year?

A2. The employee only receives one period of administrative leave for up to 90 calendar days following the initial call up for Operation Enduring Freedom. Here is a sample timeline for an employee called to active duty for one year on September 12. Assume no military training leave was used in 2001 prior to September 12.

11/12/01 – call up	12/2/01	1/1/02	1/22/02
Military Leave 15 working days	Administrative Leave 30 calendar days	Military Leave 15 working days	Administrative Leave 60 calendar days

Q3. Does the administrative leave apply to those who are fulfilling their normal obligation, e.g., annual encampment or call up for other emergencies?

A3. No. Only those called to active duty as part of Operation Enduring Freedom are eligible for the administrative leave. Because this service is beyond the regular expected obligations, the temporary leave is being provided to help state employees and their families adjust their financial affairs.

Q4. What is the purpose of temporary leave sharing for military active duty?

A4. Some employees called to active duty for Operation Enduring Freedom may experience economic hardship while adjusting financially to their initial call-up. Temporary leave sharing for military active duty gives employees the opportunity to voluntarily donate accrued annual leave and help provide a "make whole" situation for co-workers whose gross military pay is less than the employee's current gross base pay.

Q5. What are the significant features of a military leave-sharing program?

A5. This is a "make whole" program to assist employees called to active duty whose military pay is less than the their current gross base pay, excluding any pay premiums or differentials. Additional features include the following.

- This program is NOT an entitlement - whether it is offered is discretionary with the administrative authority. The approval of individual applications is also the sole discretion of the administrative authority and declined applications are not a determination that the personal situation is not an emergency or hardship. No appeals or grievances are permitted. Lack of donated annual leave by employees may suspend or restrict the program.
- Employees applying must be permanent and have at least one year of state service credit.
- Applicants must have exhausted all applicable paid leave, i.e., military training, annual, administrative, and unused compensatory time.
- Each application will be evaluated on a case-by-case basis.
- If an employee is unable to make an application, an adult family member or other responsible party may make the application on his/her behalf.

Q6. What are the tax consequences of leave sharing?

A6. The recipient would be taxed on these amounts as normal earnings; the same way it is handled under all other paid leave arrangements.

Done this 8th day of January 2002

/s/

Mary J. Mullarkey, Chief Justice