

Implementing the Military Leave Bill (Act No. 2002-430)

Act No. 2002-430 requires a local board of education to pay an employee, who is called into active service of the U. S. armed forces during the war on terrorism (which began September 11, 2001), compensation if the basic pay for active military duty is less than the salary the employee would receive if still working for the board. The basic pay is identified on the employee's military leave and earnings statement. The board salary includes any pay raises and salary schedule step raises the employee would receive if still on-the-job.

1. The employee is responsible for providing a set of the employee's mobilization/homeland security orders to the school board. The school board must send a copy of these orders to: Office of the Adjutant General, ATTN: AL-SPDO, P O Box 3711, Montgomery, AL 36109-0711. The accompanying Form 2 from the school board, requesting the Adjutant General's certification that the employee's military service is in accordance with Act No. 2002-430, should contain the name and telephone number of the contact person at the school board. (The Adjutant General's office may need a military record of service to complete the certification process.) If the employee's military service qualifies, the Adjutant General will approve the Certificate of Military Service In Accordance With Act 02-430.
2. The employee must provide a copy of each leave and earnings statement of military pay to the school board. Only the base pay identified on the leave and earnings statement — excluding any special military pays or allowances (i.e. flight pay, jump pay, housing allowance, hazardous duty pay, subsistence allowance, family separation allowance, etc.) — is considered military pay for calculating the military pay differential. If the base pay on the leave and earnings statement is less than the school board salary, the employee will receive the differential amount after federal and state withholdings. Because this payment is not subject to employer or employee TRS or FICA matching, a bonus payroll may be used for military service differential pay to employees. The employee is not due the military pay differential for any days the employee receives full payment from the school board under the 21-day annual military leave of absence provision.
3. The school board must maintain accurate records for calculating the military service differential pay. Basic pay while on active duty is subject to change due to service promotions and annual military pay adjustments. The school board needs each leave and earnings statement for the employee's length of service on active duty. (The employee can access these leave and earnings statements on the internet if necessary). The school board may be required to pay the military service differential pay for some employees retroactive to September 11, 2001.
4. The employee does not earn sick leave or vacation leave for the days the employee receives differential pay. However, if the school board uses length of service to determine additional personal leave or vacation days, the active duty military service must be counted as service credit as if the employee is still on-the-job. Act No. 2002-430 also requires the restoration of sick and annual leave the employee was required to take as a result of being called into active military service during the war on terrorism. According to an opinion by the Alabama Attorney General (AG Opinion No. 2002-270), the leave restoration includes the days the employee felt compelled or required to take under the circumstances and in the exercise of his or her independent judgment as a result of being called to active duty in the war against terrorism.
5. The time spent on active military duty counts as service credit for continuing service status, for step raises on salary schedules, and for job experience in promotions.
6. The Retirement Systems of Alabama (RSA) has issued guidance on the employee insurance program during military leave. Contact the PEEHIP program at the RSA if additional guidance is needed.
7. As stated in Item 2 above, the military service differential pay is not subject to employee or employer retirement matching. The RSA has issued guidance for payment of the employee and employer retirement matching after the employee returns from active duty. Contact the RSA if additional guidance is needed.