

## **EMPLOYER FACT SHEET STATE MILITARY RESERVE MILITARY LEAVE RIGHTS**

- The purpose of this Employer Fact Sheet is to address general issues that have frequently arisen related to State Military Reserve personnel and their rights and entitlement to military leaves of absence for ordered military duty.
- State Military Reserve personnel are members of the active militia of the State of California and are statutorily entitled to certain privileges, protections, and immunities related to military leaves of absence and reemployment after return from ordered military duty. ([Military and Veterans Code](#), §§ [120](#), [394](#), [395](#), [395.01](#), [395.05](#), [395.06](#), [395.9](#), [564](#) and [566](#).)
- All State Military Reserve personnel, whether employed by public entities or private employers, are statutorily entitled to unpaid temporary military leave up to 15 calendar days annually for inactive duty training, including time involved going to and returning from that duty. ([Military & Veterans Code](#), § 395.9)
- State Military Reserve personnel employed by public employers are statutorily entitled to up to 180 days of temporary military leave for active duty activities, with up to 30 days of paid military leave each fiscal year. ([Military & Veterans Code](#), §§ 395, 395.01(a), 564 and 566.) When placed on State Active Duty, this is ordered active duty, which entitles public employees to paid military leave.
- State Military Reserve personnel also generally have a right to extended leaves of absence and a right to reemployment after lengthier periods of ordered duty when called to active duty in certain emergency circumstances and public employees are entitled to receive their pay from their public employer for the first 30 days of that period of active duty. ([Military & Veterans Code](#), §§ 143, 146, 395.05, 395.06, and 566.)
- Discrimination based on membership in the State Military Reserve or discharge of State Military Reserve personnel from their civilian employment because of performance of any ordered military duty or training is discrimination in violation of [Military and Veteran's Code](#), § 394, the person violating that Section is guilty of a misdemeanor, and that person is liable to the injured person for actual damages sustained and reasonable attorney fees incurred. ([Military & Veterans Code](#), §§ 394 and 564.)

Should you need more information on Military Leaves of Absence, please contact the Office of the Staff Judge Advocate at (916) 854-3505.