

MILITARY WAGE DIFFERENTIAL

The Minnesota Legislature recently passed wage protections for the benefit of school district employees who have been placed on active military duty and, while serving, earn less salary as a result of missing work at their school district position. See Minnesota Statutes Section 471.975(b) (as amended in 2004).

This new legislation **mandates** school districts to pay a wage differential if the employee earns less while deployed and the school district experiences payroll savings when it hires substitute employees for the deployed employee. The effective date of the legislation is July 1, 2004. Therefore, if a school district employee has returned from deployment and is available for reemployment prior to July 1, 2004, the employee will not be entitled to the wage differential. However, if the employee is serving in active duty in the armed forces after July 1, 2004, it will be necessary to calculate whether the employee is eligible to receive a wage differential payment for service after that date.

As noted earlier, the wage differential calculation will be based on whether the employee earns less salary when serving on active military duty as compared to the employee's school district salary. If the employee experiences a loss of income, he/she may be entitled to a payment of wage differential.

The payment also will be predicated upon whether the school district has experienced a savings due to the employment of a substitute rather than paying the employee his/her regular wage. The savings received by the school district as a result of the substitution shall operate as a "cap" on the wage differential owed to the employee.

The calculation is as follows:

STEP ONE: DETERMINE IF EMPLOYEE IS ELIGIBLE.

Is the employee on active duty as a member of the National Guard, or other reserve component of the armed forces, on or after July 1, 2004?

If the answer is "yes," is the employee's military salary less than the school district salary?

If the answer is "yes," then a calculation of the school district's savings by hiring a substitute is necessary to determine whether funds are available to pay a wage differential.

The school district has the obligation to pay a qualified employee the differential as long as there are sufficient funds to pay it derived from the savings experienced through the use of a substitute employee during the employee's absence. The statute provides:

A school district making payments under paragraph (b) [Minn. Stat. § 471.975(b)] shall place a sum equal to any difference between the amount of salary that would have been paid to the employee who is receiving the payments and the amount of salary being paid to substitutes for that employee into a special fund that must be used to pay or partially pay the deployed employee's payments under paragraph (b) [Minn. Stat. § 471.975(b)]. A school district is required to pay only this amount to the deployed school district employee. See Minn. Stat. § 471.975(g).

To calculate the substitute costs:

Take the employee's school district income, including any co-curricular salary which would have been paid during deployment;	_____	(a)
Subtract the salary paid to a substitute during the period of deployment, including amounts paid to perform co-curricular duties;	!	_____ (b)
Equals the savings which will fund the wage differential.	=	_____ (c)

STEP TWO: CALCULATE THE DIFFERENTIAL PAYMENT.

If there are funds available to pay a differential, then proceed to calculate the payment the employee may receive. The statute provides the calculation used to determine the wage differential:

First, Calculate Each Employer's Daily Rate.

The differential payment under this paragraph must be the difference between the daily rates of school district and military pay, times the number of school district contract days the member misses because of military active duty. See Minnesota Statutes Section 471.975(b).

A. To calculate the school district daily rate:

Start with the employee's school district salary plus any additional co-curricular pay; _____ (a)

Divide by the number of contract days; ÷ _____ (d)

Equals the employee's school district daily rate. = _____ (e)

B. To calculate the military daily rate:

Start with the deployed employee's military basic salary; _____ (f)

Divide by 365 days; ÷ _____ (g)

Equals the deployed employee's military daily rate. = _____ (h)

Next Calculate the Wage Differential.

Take the school district daily rate; _____ (e)

Subtract the military daily rate; - _____ (h)

Multiply times the number of school district contract days the employee misses due to active duty; x _____ (i)

Equals the wage differential. = _____ (j)

STEP THREE: DETERMINE WHETHER A WAGE DIFFERENTIAL IS DUE TO THE EMPLOYEE.

Finally, calculate whether there are sufficient funds to cover the differential by comparing the total fund available for the wage differential payment against the maximum differential payment owed to the employee.

Using the savings figure (c) as a “funding cap” for the wage differential, the school district must pay the lesser of the two sums, either (c) or (j).

Pay the employee the smaller amount.

The wage differential, if any, may be paid at regular “pay day” intervals established by the School District. However, the entire amount owed to the employee must be paid within four years from the date the employee first reported to active service. See Minnesota Statutes Section 471.975(b) (as amended in 2004).

SOME EXAMPLES OF AN APPLICATION OF THIS NEW STATUTE MAY PROVE INSTRUCTIVE.

EXAMPLE ONE:

Use the following assumptions:

1. The school employee is a teacher, missing a full school year by serving 12 months on active duty which commenced after July 1, 2004.
2. The teacher is paid the average Minnesota teacher pay, \$40,146.00, with no extracurricular activity pay.
3. The teacher’s military rank is an E-16, paid an annual salary of \$33,490.00.
4. The substitute teacher salary is paid the Minnesota average of \$16,191.00.

Step One: Determine if the teacher is eligible to receive the wage differential.

This teacher is on active duty on or after July 1, 2004, and the teacher’s military salary is also less than the school district salary; therefore, the teacher meets the preliminary requirements.

The school district also will receive salary savings by hiring a substitute teacher for the upcoming school year.

Teacher's Annual Salary	\$40,146.00 (a)
Substitute's Annual Salary	! <u>16,191.00</u> (b)
Total Savings	= \$23,955.00 (c)

\$23,955.00 is the maximum amount the school district would have to provide in this wage differential calculation.

Step Two: Calculate the Wage Differential.

School District Daily Rate:

School District Annual Salary	\$40,146.00 (a)
Divided by Contract Days	÷ <u>180</u> (d)
Equals Daily Rate	= \$ 223.03 (e)

Military Daily Rate:

Military Annual Salary	\$33,490.00 (f)
Divided by Days of Duty	÷ <u>365</u> (g)
Equals Daily Rate	= \$ 91.75 (h)

Take the school district daily rate;	\$ 223.03 (e)
Subtract the military daily rate;	- <u>91.75</u> (h)
Equals difference;	\$ 131.28

Times the number of school district contract days the teacher misses due to active duty;	x <u>180</u> (i)
Equals the wage differential.	= \$23,630.40 (j)

Compare the wage differential (j), **\$23,630.40**, to the school district savings (c), **\$23,955.00**.

The school district must pay the lesser of the two sums, which in this case would be (j), or \$23,630.40.

EXAMPLE TWO:

Use the following assumptions:

1. The school employee is a custodian missing a full school year by serving 12 months on active duty which commenced after July 1, 2004. The custodian works year round.
2. The custodian is paid an annual salary of \$40,146.00, with no extracurricular activity pay.
3. The custodian's military rank is an E-16, paid an annual salary of \$33,490.00.
4. The school district hires a substitute for the salary of \$33,000.00.

Step One: Determine if the custodian is eligible to receive the wage differential.

This custodian is on active duty on or after July 1, 2004, and the custodian's military salary also is less than the school district salary; therefore, the custodian meets the preliminary requirements.

The school district also will receive salary savings by hiring a substitute custodian for the upcoming school year.

Custodian's Annual Salary	\$40,146.00 (a)
Substitute's Annual Salary	- <u>33,000.00</u> (b)
Total Savings	= \$ 7,146.00 (c)

\$7,146.00 is the maximum amount the school district would have to provide in this wage differential calculation.

Step Two: Calculate the Wage Differential.

School District Daily Rate:

School District Annual Salary	\$40,146.00 (a)
Divided by Contract Days (5 days/week x 52 weeks)	÷ <u>260</u> (d)
Equals Daily Rate	= \$ 154.40 (e)

Military Daily Rate:

Military Annual Salary	\$33,490.00 (f)
Divided by Days of Duty	÷ <u>365</u> (g)
Equals Daily Rate	= \$ 91.75 (h)

Take the school district daily rate;	\$ 154.41 (c)
Subtract the military daily rate;	- <u>91.75</u> (e)
Equals difference;	= \$ 62.66
Times the number of school district contract days the custodian misses due to active duty;	x <u>260</u> (i)
Equals the wage differential.	\$ 16,291.60 (j)

Compare the wage differential (j), **\$16,291.60**, to the school district savings (c), **\$7,146.00**.

The school district must pay the lesser of the two sums, which in this case would be (c) or \$7,146.00.

EXAMPLE THREE:

Use the following assumptions:

1. The school employee is a custodian, missing a full school year by serving 12 months in active duty which commenced after July 1, 2004. The custodian works the school year and is off during the summer.

2. The custodian is paid an annual salary of \$40,146.00, with no extracurricular activity pay.
3. The custodian's military rank is an E-16, paid an annual salary of \$33,490.00.
4. The school district hires a substitute for the salary of \$43,000.00.

Step One: Determine if the custodian is eligible to receive the wage differential.

This custodian is on active duty on or after July 1, 2004, and the custodian's military salary also is less than the school district salary; therefore, the custodian meets the preliminary requirements.

However, the school district will not receive salary savings by hiring a substitute custodian for the upcoming school year.

Custodian's Annual Salary	\$40,146.00 (a)
Substitute's Annual Salary	- <u>43,000.00</u>
No Savings to Fund the Differential	= (-)\$ 2,854.00 (b)

Therefore, the school district **will not have** a duty to pay a wage differential, and the calculation is complete.

EXAMPLE FOUR:

Use the following assumptions:

1. The school employee is a custodian, missing six months of the school year for active duty which commenced after July 1, 2004. The custodian works year round.
2. The custodian is paid an annual salary of \$34,000.00, with no extracurricular activity pay.
3. The custodian's military rank is an E-16, paid an annual salary of \$33,490.00.
4. The school district hires a substitute for the salary of \$13,500.00.

Step One: Determine if the custodian is eligible to receive the wage differential.

This custodian is on active duty on or after July 1, 2004, and the custodian’s military salary also is less than the school district salary; therefore, the custodian meets the preliminary requirements.

The school district also will receive salary savings by hiring a substitute custodian for the upcoming school year.

Custodian’s Annual Salary	\$34,000.00 (a)
Substitute’s Annual Salary	- <u>13,500.00</u>
Total Savings	= \$20,500.00 (b)

\$20,500.00 is the maximum amount the school district would have to provide in this wage differential calculation.

Step Two: Calculate the Wage Differential.

School District Daily Rate:

School District Annual Salary	\$34,000.00 (a)
Divided by Contract Days	÷ <u>260</u>
Equals Daily Rate	= \$ 130.76 (c)

Military Daily Rate:

Military Annual Salary	\$33,490.00 (d)
Divided by Days of Duty	÷ <u>365</u>
Equals Daily Rate	= \$ 91.75 (e)

Take the school district daily rate;	\$ 130.76 (c)
Subtract the military daily rate;	- <u>91.75 (e)</u>
Equals difference;	= \$ 39.01

Times the number of school district contract days the
custodian misses due to active duty (6 months of the
year = 26 weeks x 5 days/week); x 130
Equals the wage differential. = \$ 5,071.30 (f)

Compare the wage differential (f), **\$5,071.30**, to the school district savings (b),
\$20,500.00.

The school district must pay the lesser of the two sums, which in this case would be (f) or
\$5,071.30.