

## **FREQUENTLY ASKED QUESTIONS REGARDING RESERVISTS CALLED UP FOR ACTIVE DUTY**

The following Frequently Asked Questions address common situations involving COPS officers and military duty. If your agency's question is not answered here, please call your COPS Grant Program Specialist at 1.800.421.6770 for further discussion.

**Important Note:** In addition to COPS grant requirements, your agency must comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA). This act covers job protection and rights of reinstatement to employees who participate in military reserve and National Guard troops. The COPS Office does not provide legal advice regarding the USERRA; instead, please contact your agency's local legal advisors and personnel offices for further information. You may also obtain additional information regarding the USERRA from the U.S. Department of Labor at 1.866.4.USA.DOL or [www.dol.gov](http://www.dol.gov).

**1. Our COPS-funded officer has been called to active duty. Will COPS funds pay for the officer's salary and fringe benefits during this period?**

Yes, but only if your agency or local government normally authorizes paid military leave (full or partial salary and benefits) for locally-funded officers. For example, if your agency normally allows 10 days of paid military leave per year, then you may use COPS funds to pay the federal share of the officer's salary and fringe benefits (full or partial) for those 10 days (and no more). If your agency does not normally offer paid military leave to its locally-funded employees, then it may not use COPS funds to pay the officer's salary and benefits during military leave.

If your agency offers paid military leave for a period longer than the amount of paid vacation that you offer, please contact your COPS Grant Program Specialist for further discussion regarding your community policing requirements during this period.

**2. A locally-funded officer has been called to active duty. May we temporarily reassign a COPS-funded officer to backfill the vacancy and still draw down on COPS funds?**

COPS-funded officers who are reassigned to cover a vacancy created when another officer is called to active duty must still comply with all grant requirements as long as your agency continues to pay them with COPS grant funds. COPS-funded officers therefore must continue to meet the community policing requirements of their respective grants. For the COPS in Schools program, this means that COPS-funded school resource officers (SROs) must continue to spend at least 75% of their time on SRO functions as the grant requires. For the UHP program, this means that COPS-funded officers must continue to initiate or enhance community policing.

If your agency wishes to reassign the COPS-funded UHP officers to new community policing duties not previously identified in its community policing plan, you must submit a revised community policing plan in writing to the COPS Office for approval. The COPS Office will be as flexible as possible in approving revised community policing plans for the UHP grants to help grantees address specific law enforcement needs within their individual communities.

**3. May we use COPS funds to hire a temporary officer for the COPS-funded position while the (COPS-funded) reservist is on active duty?**

If a COPS-funded officer is called to duty for an extended period of time, your agency should take whatever action it would usually take to fill the vacancy in accordance with applicable state or local laws and your agency's standard policy regarding extended military leave. If your agency's own policies would allow you to hire a temporary replacement officer, then you could hire a new officer on a temporary basis and use COPS funds to pay for salary and benefits with the understanding that all applicable legal and program requirements will apply to the temporary officer. (Your agency could not, of course, use COPS funds to pay for both the reservist officer and a temporary replacement officer.)

In making any decision to fill the temporarily vacated position, your agency should consult with its legal advisor and personnel office to make sure that it is also planning appropriately to meet any other legal obligations it has regarding reinstating officers who return from military leave.

**4. May we use COPS funds to hire a permanent officer to replace the reservist who has been called to active duty?**

Any agency that proposes hiring a permanent replacement officer to fill a COPS-funded reservist's vacancy should first consult with its legal advisor and personnel office to make sure that it is planning appropriately to meet any other legal obligations it has regarding reinstating officers who return from military leave. If your agency receives authorization to hire a permanent replacement officer from its legal advisor and personnel office, COPS funding may be used for this purpose. The COPS-funded replacement officer must comply with all applicable legal and program requirements. (Your agency could not, of course, use COPS funding to pay for both the reservist officer and a replacement officer.)

Any replacement officers must be newly hired. COPS grantees may not transfer locally-funded officers into COPS-funded vacancies (a violation of the nonsupplanting requirement).

**5. Must the temporary or permanent employee who is replacing the reservist participate in community policing activities?**

Yes. COPS-funded replacement officers must continue to meet the community policing requirements of their respective grants. For the COPS in Schools program, this means that COPS-funded school resource officers (SROs) must continue to spend at least 75%

of their time on SRO functions as the grant requires. For the UHP program, this means that COPS-funded officers must continue to initiate or enhance community policing.

Again, if your agency wishes to reassign COPS-funded UHP officers to new community policing duties that were not previously identified in its community policing plan, it must submit a revised community policing plan in writing to the COPS Office for approval. (See Question #2.)

**6. If our agency's policy is to maintain the vacancy until the reservist returns, what should we do with the COPS funds during this time?**

Please immediately notify your Grant Program Specialist in writing that your agency intends to stop drawing down COPS funds during the period of active military duty. Identify, if possible, how long you anticipate the period of active duty to last. (Please also update your Grant Program Specialist in writing if this period is extended.) Your agency will be able to obtain a no-cost extension to the grant period so that it may complete implementing the grant when the reservist returns to your agency.

**7. May we place a part-time locally-funded officer into the full-time vacancy of the COPS-funded reservist and use COPS funds to cover the difference in hours?**

Generally speaking, the COPS Office will not approve the use of full-time COPS grant funds to pay for part-time officer positions or to pay for locally-funded officers who are transferred into a COPS position. In some circumstances, the COPS Office may allow agencies to promote locally-funded part-time officers to fill full-time COPS grant-funded positions, but only if the agency also hires a new part-time officer with local funds. Please contact your Grant Program Specialist if your agency wishes to discuss this option further.

**1.800.421.6770**

***COPS Office – U.S. Department of Justice Response Center***