

	<i>Administrative Regulation</i>	
	Military Leave	Policy# 8.11
		Effective: 03/13/2023
		Revised: 01/01/2024
		Owner: Human Resources

Purpose:

The purpose of the military leave policy is to outline the City's commitment to supporting employees who are called to serve in the military and to ensure that these employees are provided with the necessary time off and job protection to fulfill their military duties while maintaining their civilian employment.

Scope:

This regulation applies to all employees who are members of the National Guard, National Guard Reserve or any reserve component of the Armed Forces of the United States or the United States Public Health Service. Represented employees should also refer to their specific collective bargaining agreements.

Policy:

An employee shall be entitled to military leave with the U.S. Armed Forces. Leave shall be approved to a maximum of five (5) years unless extension is required in accordance with ORS 408.290 and Federal Law. In the event of any conflict between this policy and applicable law, the law will be followed.

Employees on military leave may not be penalized in any way for their absence, including but not limited to, vacation accrual rates, incentives based on regular attendance, other benefits they may otherwise be entitled to receive, and without impairment or efficiency/performance rating or other rights or benefits to which the employee is entitled.

An employee returning from active duty must generally be returned to the same position as was held when the duty was commenced.

Procedure:

1. Requesting Leave

1.1. Any employee called to active duty must notify their supervisor and Human Resources by providing a copy of orders.

1.2. Any employee called to training drills must also notify their supervisor in writing.

2. Paid Leave Benefits

- 2.1. Eligible employees called for active duty or training may be entitled to leave with pay for all scheduled workdays not to exceed twenty one (21) calendar days in any federal training year (October 1st through September 30th), provided employees have been employed for 6 months prior to leave.
- 2.2. Employees may use military leave for active duty or inactive duty for training, state active duty, and duty under Title 10 or 32 of the United States Code.
- 2.3. Employees may take paid leave intermittently during the federal fiscal year.
 - 2.3.1. The actual number of paid work hours allowed is dependent on the employee's standard work schedule.
 - 2.3.2. This provision does not apply to weekend duty providing the employee's regular days off are on the weekend.
 - 2.3.3. Absences incurred for additional training, weekend drills, and attendance at service schools may be charged to accrued paid time off such as PTO, vacation or compensatory time or taken as unpaid leave.
- 2.4. Military leave shall be in addition to any regular leave for which an employee may be entitled.

3. Returning from Leave

- 3.1. After military training or service, the employee shall report back to work or request reemployment depending on the duration of the training or service.
- 3.2. After periods of service of up to 30 consecutive days the employee is required to report to work no later than the first regularly scheduled workday following completion of service, provided the employee received at least eight hours plus reasonable time for transportation from the place of service to the employee's residence.
 - 3.2.1. After a period of service of 31-180 days an employee must request reemployment with Human Resources no later than fourteen (14) days after the completion of service.
 - 3.2.2. After a period of service of 181 days or more the employee shall request reemployment no later than 90 days after completion of service.

4. Reemployment

4.1. *A person whose military service lasted 1 to 90 days must be “promptly reemployed” in the following order of priority:*

- 4.1.1. In the job the employee would have held had the employee remained continuously employed, so long as the employee is qualified for the job or can become qualified after reasonable efforts by the employer; or
- 4.1.2. In the job in which the employee was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to above after reasonable efforts by the employer to qualify the employee.
- 4.1.3. If the employee cannot become qualified for either position described in 4.1.1 or 4.1.2 above (other than for a disability incurred in or aggravated by the military service) even after reasonable employer efforts, the employee must be reemployed in a position that is the nearest approximation to the positions described above (in that order) which the person is qualified to perform, with full seniority.

4.2. *Ninety one (91) or more days:*

4.3. Employees returning from military service of 91 or more days in the following order of priority:

- 4.3.1. In the job the person would have held had the person remained continuously employed, or a position of like seniority status and pay so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer; or
- 4.3.2. In the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status, and pay the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph 4.3.1 after reasonable efforts by the employer to qualify the person.
- 4.3.3. If the employee cannot become qualified for either position described in 4.3.1 or 4.3.2 above: in any other position that most nearly approximates the above positions (in that order) that the employee is qualified to perform with full Seniority.

4.4. If during the time of military leave the employee’s position is eliminated due to layoff, the returning employee shall be reemployed to layoff status.

5. Leave While Still in Probationary Period

- 5.1. Any employee who has not completed their probationary period prior to the time the military leave commences shall upon returning to such position, be required to serve the remainder of the probationary period.

6. Accrued Leave

- 6.1. Prior to commencing military leave, an employee may elect to use accrued leave, excluding sick, and maintain a paid status. Accrued leave does not have to be exhausted before leave without pay is granted for military service.
- 6.2. Leave will not accrue during any period of unpaid status due to military leave. However, leave accrual rates and service credit shall be treated as though the employee had been continuously employed.

7. Healthcare Benefits

- 7.1. Employees on unpaid military leave thirty-one (31) days or more shall have the right but are not required to elect and purchase continuation of medical, dental and vision benefits for themselves if they are already enrolled in City medical/vision and/or dental coverage under federal healthcare continuation (COBRA) for up to twenty-four (24) months. COBRA coverage would be in addition to military coverage.
- 7.2. Upon reemployment, the City will reinstate the employee's coverage without imposing any exclusion or waiting periods that would not have been imposed had the coverage not been terminated.

8. Other Benefits While on Leave

8.1. *Basic Group Life and Group Supplemental Life Insurance:*

- 8.1.1. Please refer to the policy documents for group life suspension, continuation, and reinstatement questions. Employees are responsible for the cost of supplemental life insurance.

8.2. *Disability:*

- 8.2.1. Short-Term and Long-Term Disability coverage will end at the end of the month in which military leave begins, unless otherwise specified in an employee's collective bargaining agreement.

- 8.2.2. Coverage will be automatically reinstated when the employee returns to work immediately following their discharge from active duty.

8.3. *Flexible Spending Accounts:*

- 8.3.1. Employees on unpaid military leave that have a qualifying family status change may be allowed a mid-year revocation of flexible spending account elections. Each situation is determined on a case-by-case basis, by the City's Human Resources department. In the absence of a mid-year revocation of election, Healthcare Flexible Spending Account (HCFSa) and Dependent Care Flexible Spending Account (DCFSa), will continue to be funded to the extent the employee receives regular or vacation pay from the City.
- 8.3.2. The employee may continue to request reimbursement from a DCFSa account through the end of the plan year, as long as the dependent care expenses were incurred to allow both parents to work or attend school at least half time.
- 8.3.3. Requests for reimbursement from a HCFSa account may be made up to the date the employee begins military leave, or the date the employee's vacation accrual is paid out. If funds remain in the HCFSa, the employee may continue the HCFSa account through COBRA.

Definitions:

1. *"Immediately following their discharge"* means within the Reporting to Work definition specified in the Uniformed Services Employment and Reemployment Rights Act of 1994.
2. *"Military Duty"* means training and service performed by an inductee, enlistee or reservist or any entrant into a temporary component of the Armed Forces of the United States, and authorized time spent reporting for and returning from such training or service, or, if a rejection occurs, from the place reported therefor; but does not include active duty training as a reservist in the Armed Forces of the United States or as a member of the National Guard of the United States where the call is for a period of 15 days or less.

Resources:

1. [Uniformed Services Employment and Reemployment Rights Act USERRA](#)