

XXV. MILITARY LEAVE

- A. Purpose. The Uniformed Service Employment and Reemployment Rights Act of 1994 (“USERRA”) prohibits employers from discriminating against employees who fulfill non-career military obligations in the Uniformed Services and requires employers to provide a leave of absence within the parameters described below to allow employees to perform military obligations. The purpose of this Military Leave Policy is to provide military leave as required by law and to comply with the other relevant provisions of USERRA.
- B. Eligibility. This Military Leave Policy applies to all full-time and part-time employees of the City who are also members of one of the Uniformed Services.
- C. Definitions. For the purposes of this Military Leave Policy, the following definitions apply:
1. “Benefit,” “Benefit of Employment,” “Rights and Benefits,” or any variation of these—Any advantage, privilege, or gain (other than wages or salary for work performed) that accrues by reason of employment.
 2. “Calendar Year”—January 1 through December 31 of each year.
 3. “Military Service”—The performance of military duty on a voluntary or involuntary basis in a Uniformed Service.
 4. “Partial Pay”—Partial pay is the difference between the employee’s regular salary and the employee’s full-time military salary, excluding expenses, Basic Allowance for Substance (BAS), Basic Allowance for Housing (BAH), or combat pay where the employee’s City salary is more than the employee’s full-time military salary.
 5. “Seniority”—Longevity in employment together with any benefit(s) that accrue with or are determined by longevity.
 6. “Uniformed Service(s)”—The Armed Forces of the U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard; the reserve components of the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; and any other category of service designated by the President of the United States in time of war or national emergency.
 7. “Working day(s)”—A working day for a City employee is comprised of:
 - (a) an eight (8) hour day, a ten (10) hour day, or other alternate work days for a thirty-five (35) to forty (40) hour per week employee;
OR
 - (b) a twenty-four (24) hour shift for a fifty-six (56) hour per week employee;
OR
 - (c) any combination of shifts that comprise seventy (70) to eighty (80) hours in a bi-weekly pay period
 - (d) part-time employees will be evaluated on a case by case basis.

D. Requests for Military Leave: All requests for military leave shall comply with the following:

1. Every employee requesting military leave shall notify their supervisor either verbally or in writing of the orders requiring military service as soon as they have knowledge of upcoming military service or as soon as practicable thereafter.
2. All military leave requests shall be accompanied by a copy of the order, directive, notice, or other documentation requiring absences from scheduled work. Employees shall complete the Military Leave Request Form.
3. An employee in a reserve program often has some discretion on dates for annual training exercises. The City may request that the employee select dates that will least interfere with the City's objectives or may lessen the impact of the employee's absence. If the employee has a choice, it shall be the employee's responsibility to discuss scheduling of the training with his/her supervisor and will be up to the military unit to accept agreed upon or recommended dates.
4. An employee returning from military service retains all rights to reemployment and certain seniority entitlements, as provided for by USERRA and this Policy. The employee must report back to work or request reemployment pursuant to USERRA by contacting the Human Resources office and the employee's Department Director in advance of returning to work.

E. Benefits:

1. Continuation of insurance benefits is available in accordance with USERRA based on the length of leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible. While the employee is on military leave, accrued non-seniority based leave (such as vacation, sick leave, or holiday pay) will continue to accrue at the rate the employee was accruing when the employee was called to active duty.
2. The employee who is a member of the Uniformed Services and called to active duty can continue regular employee insurance benefits for thirty (30) calendar days for military service pursuant to this Policy. The City will pay the City's portion of the employee's insurance premium during such thirty (30) calendar days. The employee will pay the employee's portion of the insurance premium during those thirty (30) calendar days.
3. Should the employee's active duty continue longer than thirty (30) calendar days, the employee will pay the full premium if they decide to remain on the city insurance. If the employee's City paycheck is not substantial enough to cover the cost of the insurance premiums or other automatic deductions the employee participates in, the employee may make arrangements to pay to the City those premiums by personal check through the Human Resources office.

F. Leave(s) of Absence for Military Service:

1. An employee who is a member of the Uniformed Services will be granted up to fifteen (15) working days of paid leave per calendar year for days during which the employee is engaged in authorized training or duty ordered or authorized by the proper authority to be calculated as follows:

- a. Up to a total of one hundred twenty (120) hours for an employee who normally at a rate of eight (8) hours or ten (10) hours per day or works other alternate work days that equal thirty-five (35) to forty (40) working hours within a pay week or seventy (70) to eighty (80) hours in a bi-weekly pay period;

OR

- b. Up to a total of one hundred sixty-eight (168) hours for an employee who normally works fifty-six (56) hours in a pay week at a rate of eleven and two tenths (11.2) hours per day.
2. If leave(s) of absence for military service exceed the fifteen (15) working days of paid military leave, an employee shall be permitted upon request to use any accrued vacation and/or compensatory time during military leave past the fifteen (15) working days of paid military leave. The employee must provide a written request to their supervisor prior to the use of such time.
 3. If leave(s) of absence for military service exceeds more than thirty (30) working days of military leave, then after the first thirty (30) day period of active duty, the City will pay to the employee partial pay during the remainder of active duty service up to a maximum of two (2) years from the first day when partial pay for active duty began. Partial pay during this period will be paid on the same schedule that the employee would be paid if they were not on active duty.
 4. An employee called for active duty shall, upon their return to City employment, receive credited service hours for regularly-scheduled hours away from work while on federal active duty. In other words, there will be no break in the employee's City employment that may disrupt benefits that are based on continuous employment.