

6.07 MILITARY LEAVE

General

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 or other benefits they may otherwise be entitled to receive, provided such employees ~~shall~~ have been in the employ of the City for a period of ~~six~~6 months prior to leave.

National Guard and Other Military Reservists

All employees of the ~~Auditor's Office-City~~ who are members of the Oregon National Guard or any reserve component of the armed forces of the United States are entitled to a paid leave of absence from duties for a period not exceeding 15 calendar days (11 work days) in any federal fiscal year (October 1st through September 30th) for training, provided the employee is employed at least six months prior to the leave. Employees are not required to take their leave in one block of time but may use the paid leave allowed under this rule over the course of the federal fiscal year. The actual number of paid work hours allowed is dependent on the employee's standard work schedule, but must be consistent with the intent of this rule. ~~This provision does not apply to weekend duty,~~ providing the employee's regular days off are on the weekend.

The provisions of this section shall also apply when the guard or a reserve unit is in the federal service or called to active duty on extended tour; however, the total number of paid days for both training and active duty shall not exceed the total amount allowed above in any federal fiscal year.

Absences incurred for additional training, weekend drills, and attendance at service schools may be charged to accrued paid time off, such as vacation or compensatory time, or taken as unpaid leave.

Requesting Military Leave

Any employee called to active duty must notify their supervisor either orally or in writing of the need for military leave.

Extended Military Leave

An employee shall be entitled to military leave without pay for service with the U.S. Armed Forces. ~~Leave shall be approved to a maximum of five years unless extension is required in accordance with ORS 408.290 and Federal Law. Such~~ ~~employees~~ shall provide verbal or written notice of military service to ~~their bureau~~the City Auditor.

Replacement Employees

~~Affected bureaus~~The Auditor's Office may appoint another employee in accordance with City Code and Auditor's Office Human Resources Administrative Rules to replace any employee called to active duty. ~~An employee returning from active duty must generally be returned to the same position as was held when the duty was commenced.~~

**Reporting Back to Work
After Extended Military
Leave**

After military training or service, the employee shall report back to work or request reemployment depending on the duration of the training or service.

After periods of service of up to 30 consecutive days, the employee shall report to work no later than the first regularly scheduled workday following completion of service. The employee, however, shall also be allowed eight hours plus reasonable time for transportation from the place of service to the employee's residence.

After a period of service of 31-180 days, the employee shall request reemployment with the ~~appointing authority~~ Auditor's Office not later than 14 days after the completion of service.

After a period of service of 181 days or more, the employee shall request reemployment not later than 90 days after completion of service.

Upon return to work or receipt of a written request for reemployment, the City Auditor's Office shall return the employee to ~~his or her~~their former position if the period of service did not exceed 90 days. The pay shall be at the same step level held before military leave, taking into account any salary increases that would have occurred if the employee had been continuously employed.

If the period of service was more than 90 days, the employee shall return to the position of employment in which the employee would have been employed but for military service or a position of like seniority, status and pay. If not qualified to perform the appropriate job due to a military disability, the returning employee shall be entitled to the nearest comparable job they are qualified to perform with like seniority, status and pay or its closest approximation.

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.

**Leave While Still in
Probationary Period**

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.

Accrued Leave

Prior to commencing military leave, an employee may elect to be paid for accrued vacation leave and compensatory time. Accrued leave does not have to be exhausted before leave without pay is granted for military service.

Vacation and sick leave will not accrue during any period of unpaid status due to military leave. However, vacation and sick leave accrual rates and service credit shall be treated as though the employee had been continuously employed. Sick leave that has accrued to the time military leave commences shall be preserved.

Healthcare Benefits

The following information about benefits applies only to employees who are eligible for benefits at the time their active military duty begins.

Employees on unpaid military leave 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 24 months. COBRA coverage would be in addition to military coverage. 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. The City will pay the cost of continuing to provide health insurance coverage under COBRA for up to 24 months, and will waive the 2% administrative fee, for the dependents of City employees who are called to active duty for a minimum of 31 days (training periods do not qualify) at the same level and cost provided while the employee was at work. The dependents of employees who have dual coverage through the City or a spouse/domestic partner's employer are not eligible for this benefit. For employees on military leave less than 31 days, their City paid coverage for themselves and their dependents will continue.

Other Benefits While on Military Leave

Basic Group Life and Group Supplemental Life Insurance

Employees on military leave may continue their basic group life insurance and approved supplemental life insurance for themselves and any dependents covered at the time their military leave starts, for a maximum of twelve (12) months. The employee is responsible for the premium. If the employee does not want to continue the coverage during their active military duty, their coverage for basic group life insurance will be automatically reinstated when the employee returns to work immediately* following their discharge from active duty. If the employee does not elect to continue and pay for the supplemental coverage when they were originally deployed, they will have the option to re-elect group supplemental life and dependent supplemental life upon their return to employment with the City.

Long Term Disability

The City paid portion of Long Term Disability may continue for a maximum period of thirty (30) days. Coverage ends on the thirtieth day of a military leave. Coverage will be automatically reinstated when the employee returns to work immediately* following his/her discharge from active duty.

Flexible Spending Accounts

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 Benefit Office. In the absence of a mid-year revocation of election, flexible spending accounts, MERP and DCAP, will continue to be funded to the extent the employee receives regular or vacation pay from the City.

The employee may continue to request reimbursement from a DCAP 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.

Requests for reimbursement from a MERP 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 MERP, the employee may continue the MERP account through COBRA.

*Immediately following discharge means within the Reporting to Work specified in the Uniformed Services Employment and Reemployment Rights Act of 1994.

Temporary and Limited Duration Employees

Employees hired for a limited duration or temporary positions do not have reemployment rights following the conclusion of a military leave of 31 days or more.

**Administrative Rule
History**

~~Adopted by Council March 6, 2002, Ordinance No. 176302~~
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