



## **6.07 MILITARY LEAVE**

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### **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 employee shall have been in the employ of the City for a period of 6 months prior to leave.

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### **National Guard and Other Military Reservists**

All employees of the 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 1<sup>st</sup> through September 30<sup>th</sup>) for training, provided the employee is employed at least six months prior to the leave. This provision does not apply to weekend duty.

The provisions of this section shall not be applicable when the guard or a reserve unit is in the federal service or called to active duty on extended tour, nor shall this section be applicable for any duty in excess of 15 calendar days 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.

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### **Requesting Military Leave**

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

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### **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 408.240 and Federal Law. Such employee shall provide verbal or written notice of military service to their bureau.

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### **Replacement Employees**

Affected bureaus may appoint another employee in accordance with City Code and 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.

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

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

## Leave

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**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 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 shall return the employee to his or her 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.

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### **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.

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### **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.

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### **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.

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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 will continue.

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## **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.

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**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.

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**Administrative Rule  
History**

Adopted by Council March 6, 2002, Ordinance No. 176302  
Effective April 5, 2002  
Revised July 1, 2004  
September 16, 2005

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## **Policy Guidance and Procedures on Military Leave of Absence And Re-employment Requirements**

The City of Portland Human Resources Administrative Rules 6.07 covers military leave and reemployment rights of employees who will be absent from their City employment to serve in the military forces.

### **Critical Legal Requirements**

Individuals who are members or who apply to be members of the uniformed services cannot be denied initial employment, re-employment, promotion, or any benefit of employment on the basis of that membership or performance of service.

State and federal laws grant employees the right to take time off from work to perform military service, for up to five years; and that employees be fully restored to positions within the same seniority, status, and pay they would have had if they had never left. The employer must also train employees or make other reasonable accommodations in cases of long periods of absence or a service-connected disability.

Federal law provides that an individual cannot be discharged, except for cause, for one year after being re-employed if that employee served in the military service for more than 180 days. The City may continue the probationary period for new employees following the return from military leave.

### **General Information for Supervisors**

BHR has prepared an “*Employee Military Leave Information Packet*”. It contains useful information for the employee requesting military leave such as benefit information, frequently asked questions on how to handle their military leave, the vacation donation program, and how to request re-employment upon their return. The packet is available in the Military Leave section of the [BHR Forms Library](#); or from your Human Resources Coordinator or Technician. It is a good idea to provide this packet, in advance of military leave to any employee with a military obligation. This will help them plan ahead of time for their possible leave of absence.

Plan to pay your employee absent for military duty training for 11 workdays in a federal fiscal year (October 1 through September 30). Allow them to use accrued vacation or compensation time for any additional absences, or unpaid time at the *employee's* discretion.

*Temporary and limited duration employees* are not eligible for a military leave of absence in excess of 30 days. If your temporary employee requests military leave contact your Site Team HR Coordinator.

Most of the time, an employee requests military leave in advance of their military orders to report. Some of the time members of the military receive their orders by telephone, when they are not on

shift, and must report immediately. If this is the case, you may need to accept information from the employee via the telephone, from a family member, or another person whom the employee has designated in their behalf.

Work closely with your Human Resources Coordinator for any unusual situations, or if there is need for corrective action for any employee who has returned from military leave within the last year.

## Supervisor's Checklist

### Upon employee's request for military leave:

- ❑ Ask the employee for any written orders they may have received. If none are available, accept their verbal notice of need for military absence.
- ❑ If they do not have one, give the employee an *Employee Military Leave Information Packet*. The forms are located in the Military Leave section of the [BHR Forms Library](#) (also available from your HR Coordinator or Technician). If the employee is unavailable, mail or arrange for the mailing of the employee packet to the employee's designee.
- ❑ Ask the employee to fill out a leave request form. A generic leave form is available from the BHR forms web site at <http://www.portlandonline.com/omf/index.cfm?c=10174>. The leave form asks the employee how they elect to use their vacation or compensatory leave accruals. Or, if your bureau typically uses another leave of absence form, the employee may use it. Employees after using her or his allotted paid military leave may (*at their discretion*) choose leave without pay or deduct from their vacation or compensatory time accruals.
- ❑ Ask the employee to fill out a [Military Leave Contact Information](#) form. This form designates a family member or friend as a contact in their absence. If the employee is not available, you may need to fill out the form on their behalf, or obtain the information contained in the form. The information is needed to properly process their military leave, and should be kept on file in the bureau in case you must send work-related information to the employee in their absence.
- ❑ Forward a copy of the forms to the Bureau timekeeper and/or individual(s) who process electronic personnel action notices (EPAN). Retain copies for your personal files.
- ❑ For absences in excess of 30 days, collect or arrange for the deactivation of the employee's keys and other City property such as identification or security badges.
- ❑ Contact your site-team HR Coordinator for assistance with filling your staffing needs due to the military member's absence.

### Upon employee's request for return from military duty:

- ❑ Notify your site-team HR Coordinator or Technician as soon as possible after you hear from the employee. Your site-team HR person can assist you in processing your employee's return to work.
- ❑ Upon the employee's return, or when they contact you, ask him or her for a copy of any discharge orders. The discharge orders are used to verify the time away on military duty, and will be needed to properly reemploy them. You may also accept documents other than discharge papers for example, leave and earnings statements, endorsed orders, or a letter from the appropriate military authority.
- ❑ Compare the dates on the discharge orders to the requirements for re-employment listed in [HR Administrative Rule 6.07 Military Leave](#). Your assigned site team HR Coordinator or HR Technician can assist you in doing this.
- ❑ If the employee has not contacted you in a timely period according to the HRAR, contact your site-team HR Coordinator to assist you in handling the employee's request; otherwise,
- ❑ Arrange with the employee a prompt and expeditious return to work date.
- ❑ The bureau timekeeper or the person who processes the bureau EPAN will also need a copy of the discharge papers to fill out the needed paperwork to process the employee's return from leave; send a copy of the discharge documents to him or her.
- ❑ Contact your HR Coordinator if the employee returns with a service related injury that may affect their ability to do the position's essential functions.

### **Checklist for Bureau timekeepers**

#### Upon employee's absence:

To process the absence ask yourself the following:

1. Did the employee notify their supervisor either verbally, or in writing, that she or he would be absent from the job for military *training* as a member of the Oregon National Guard or other reserve unit of the armed forces? If yes go to #2 and continue. If the answer to this question is no, and the leave request is for non-training duty go to #4 and continue.
2. Has the employee been employed for six months? If yes, then the employee is eligible to receive up to 11 workdays of paid leave in any federal fiscal year (October 1<sup>st</sup> through September 30<sup>th</sup>) for *training*. In this situation, code the timesheet or TAR with ML for paid military leave. If this is not the case, then proceed to #3.
3. Absences for training in addition of 11 paid workdays may be coded from accrued vacation or compensatory time, or unpaid leave. The employee may elect how to use their

accrual banks.

4. Did the employee notify their supervisor either orally, or in writing of their absence from work due to their active duty? In this situation, the employee may choose to have their time sheet (TAR) coded for either use of their accrued vacation or compensatory time, or unpaid leave (coded MH). Use of accrued leave must be taken in continuous blocks of time. *When coding for use of accrued leave it is a good idea to note in the remarks section that the employee is on military leave.*

***In situations of unpaid absences for military duty, more than 30 days:***

- ❑ Process an electronic personnel action notice (EPAN) coded “ML” for Unpaid Military Leave.
- ❑ Notify the City payroll and benefit office of employee’s unpaid absence due to military duty, and the time of expected absence (if known). The City Benefit Office will also need to know the name of the authorized representative for the employee if they have designated someone in their absence. If the employee has filled out a [Military Leave Contact Information form](#), forward a copy of the form to the benefits office.

Upon employee’s return from military duty:

- ❑ Gain a copy of the employee’s military discharge orders from the supervisor or employee. Other documents are acceptable provided they establish the length and character of the service, and the timeliness of the application for reemployment. Examples include discharge papers, leave and earnings statements, endorsed orders, or a letter from a proper military authority.
- ❑ **For any unpaid absence:** Complete section’s “A, C, D & E” of the Oregon Public Employees Retirement System (PERS) USERRA Certification Form available on the [forms page](#) for PERS website listed under *Paper Reporting – Personnel*.
- ❑ **For an unpaid absence in excess of 30 days, also:** complete a [Re-employment Notice of an Employee on Military Leave of Absence](#).
- ❑ Send the completed PERS USSERA Certification, *Re-employment Notice of an Employee on Military Leave of Absence*, and a copy of the employee’s discharge documents to your Site-Team Human Resources Technician.
- ❑ Process an electronic personnel action notice (EPAN) to return the employee from military leave.
- ❑ Notify the City payroll and benefits office of the employee’s return to work from military leave of absence.



## Human Resources Checklist

**HR Site Team Human Resource Technicians**, process the re-employment of an employee on military leave by:

- ❑ First, verifying that you have three documents, the *Re-employment Notice of an Employee on Military Leave of Absence*, the *PERS USSERA Certification form*, and documents verifying the military service of the employee during their absence.
- ❑ Verify the employee meets all the certification requirements, listed on the form by comparing the form to the attached military service documentation. If the employee has not returned from military service within the time limitations, contact the HR Site-Team Coordinator or Manager.
- ❑ Verify information on PERS – USERRA Certification form by comparing to discharge documents. The amount of salary filled in by the bureau should match the leave of military service time period., and obtain an approval signature on the PERS USERRA Certification from the HR Site-Team Manager.
- ❑ Send the signed PERS – USERRA Certification form to the City of Portland central payroll section; they will forward the form to the PERS.
- ❑ Send an approved copy of the Re-employment Notice of an Employee on Military Leave of Absence to the Human Resource Coordinator and appropriate bureau HR contact. (If this is your practice for other leave approvals)
- ❑ Forward the copy of the military service documentation, and the approved *Re-employment Notice of an Employee on Military Leave of Absence* to HR Administration to include in the personnel record.

### **HR Administration:**

- ❑ Approve processed EPAN for military leave of absence.
- ❑ Upon return of the service member, do not adjust the employee's accruals as done when processing a different type of leave of absence.
- ❑ Retain the re-employment documentation in the permanent personnel record.