



City of Riverside, California
Human Resources Policy and Procedure Manual

Approved:

Human Resources Director

City Manager

Number: V-5 Effective Date:

SUBJECT: LEAVE OF ABSENCE (MILITARY)

PURPOSE:

To provide uniform guidelines relating to military leave and compensation for City employees.

POLICY:

In accordance with provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the California Military and Veterans Code, the following shall apply to leaves of absence for Active and Inactive military leave.

Active Duty

1. Short Term Military Duty Leave of Absence - This is defined as a leave of absence from City employment to engage in ordered military duty (exclusive of drills or regularly scheduled weekend meetings) for a period not to exceed 180 calendar days, including travel time, for purposes of active military training, encampment, naval cruises, special exercises, or like activity as a member of the reserve corps or armed forces of the United States, or the National Guard, or the Naval Militia.

The following shall apply to any Short Term Military Duty Leave of Absence:

- a. Eligibility - To be eligible for a Short Term military duty leave of absence, employees must meet the following requirements:
 - 1) City employee occupying a regularly budgeted position and working a minimum of 20 hours per work week (temporary and seasonal employees are not eligible for such leave).
 - 2) Have been employed by the City for at least one (1) year immediately before the effective date of active duty, with continuous City service (time previously spent in recognized military service may be used in computing the one year of employment).

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b. Effect on Compensation/Benefits - During an approved short term military duty leave of absence, employees shall:

- 1) Be entitled to receive their regular salary and compensation as City employees for the first 30 calendar days of such leave in any fiscal year. The fiscal year is from July 1st through June 30th.
- 2) Receive the same vacation, sick leave and holiday privileges, and privileges to promotion they would have received had they not been absent.
- 3) Have probationary periods extended to the equivalent time of such leave, if applicable.
- 4) After the first thirty (30) calendar days, employees taking an additional period of military leave for the purposes of involuntary active military service with the Armed Forces of the United States to serve in support of the current actions to combat terrorism against America, shall be entitled to leave with partial pay, pursuant to the terms of the Fringe Benefits and Salary Resolution. This pay shall consist of the difference between the gross pay and allowances actually received by the employee from the United States for such service, and the base pay that the employee would have received from the City of Riverside if he or she had not been called to active military duty, subject to all required and appropriate deductions and withholdings. If an employee's base military pay is higher, there is no salary supplemental, but benefits are still to continue. The employee will continue to be responsible for any out-of-pocket insurance premiums in order to avoid a gap in coverage.

Note: While an employee is on military leave, additional pays such as including bilingual stipend and other special assignment pay will stop. The respective department is responsible for submitting the Personnel Action Form to end and re-start the additional pays. This applies to employees who are on military leave for one (1) pay period or longer.

c. Reinstatement after Leave - Employees returning from an approved short term military duty leave of absence shall have the right to be reinstated to their former positions and status held immediately prior to taking such leave if still qualified to perform all the duties of their positions. If a position has been abolished or otherwise has ceased to exist during such leave, an employee shall be reinstated to:

- 1) Another position in the same class with like seniority status and pay; or

- 2) A vacant position in a comparable class for which he/she is qualified.

Employees returning from an approved short term military duty leave of absence shall be required to report to work at the next regularly scheduled work period unless other arrangements were made with the department head concerned.

- d. Weekend Accountability - Employees presenting orders cut to exclude weekends or regular days off from a period of temporary military duty may, at the discretion of the department head, be given the option of either being scheduled for work on those regularly scheduled days off or, if they are not available to report for work, of having those days credited as military leave. Employees shall be required to make such a determination for the department head prior to the processing of requested leave.

2. Regular Active Military Duty Leave (Federal or State) - This is defined as a leave of absence for full time military service as a result of being ordered into active duty as a member of the Reserves, National Guard or Naval Militia or as a result of induction, enlistment or otherwise being ordered or called into active duty as a member of the armed forces of the United States.

The following shall apply to any Regular Active Military Duty Leave:

- a. Eligibility - To be eligible for a regular active military duty leave of absence, employees must meet the following requirements:
 - 1) Be a City employee occupying a regularly budgeted position and working a minimum of 20 hours per work week (temporary and seasonal employees are not eligible for such leave)
 - 2) Have been employed by the City at least one (1) year immediately before the effective date of active duty, with continuous City service (time previously spent in recognized military service may be used in computing the one (1) year of employment). National Guard members called into service during a state of extreme emergency proclaimed by the Governor are not required to meet the one (1) year service requirement .
- b. Effect on Compensation/Benefits - During an approved regular active military duty leave, employees shall:
 - 1) Be entitled to receive their regular salary and other compensation as City employees for the first 30 calendar days of such leave in any

fiscal year (this time limit shall include any time under temporary leave in that same fiscal year). The fiscal year is from July 1st through June 30th.

- 2) Be credited with the time spent in military service under honorable conditions for purposes of seniority, retirement (in accordance with Public Employees' Retirement System policies), promotion, and merit salary increases.
- 3) Be placed on the step in the salary range that would have been attained had the employee not entered into active military service.
- 4) For the first 180 days, receive the same vacation, sick leave and holiday privileges, and privileges to promotion they would have received had they not been absent.
- 5) After the first thirty (30) calendar days, employees taking an additional period of military leave for the purposes of involuntary active military service with the Armed Forces of the United States to serve in support of the current actions to combat terrorism against America, shall be entitled to leave with partial pay, pursuant to the terms of the Fringe Benefits and Salary Resolution. This pay shall consist of the difference between the base pay and allowances actually received by the employee from the United States for such service, and the gross wages that the employee would have received from the City of Riverside if they had not been called to active military duty, subject to all required and appropriate deductions and withholdings.

c. Reinstatement After Leave - Employees returning from an approved regular active military duty leave shall:

- 1) Have the right (if released, separated or discharged under conditions other than dishonorable) to reinstatement to former position and status held provided reinstatement is requested within six (6) months after termination of active military service.
- 2) Have the right, in case of service related hospitalization for not more than one (1) year immediately after separation, to reinstatement within six (6) months after discharge from hospitalization.
- 3) A reinstated employee, unable to perform the duties of the position formerly held because of disability incurred in military service, shall

be placed in a position of like seniority, status and pay or the nearest similar job that can be performed.

An employee, electing to extend the period of active military service 12 months or more beyond the date on which discharge could have been received, shall lose reinstatement rights and benefits. Involuntary extension of active duty for an enlisted person for a stated duration shall not cause loss of reinstatement rights and benefits.

- d. Retention - Any employee, other than a probationary employee, who is reinstated after termination of active military service, shall not be discharged from such position without cause within one (1) year after reinstatement. Uncompleted probationary periods must be completed per normal City policy upon reinstatement.

Inactive Duty

- 1 Reservist Weekend Drills or Regularly Scheduled Meetings - Reservist employees who are required to attend monthly weekend drills and/or regularly scheduled meetings that coincide with their regularly scheduled working day(s) shall, with the approval of their department head, have the option of using any previously earned vacation or compensatory time, or being placed on leave of absence without pay for such periods of time. Where possible, efforts shall be made to adjust an employee's work schedule to result in drill or meeting dates falling on regular days off.

Military Duty Orders - It shall be the responsibility of the employee to provide their immediate supervisor with an appropriate copy of the orders specifying a tour of military duty for the employee. These orders shall be presented in sufficient time, if possible, prior to the start of the military duty tour, to permit review for eligibility and the processing of paperwork for a leave of absence. Military orders, when received, must be honored and the employee placed on a leave of absence for the duration of the orders. However, there is a five-year limit (applies to period of service, not absence) on cumulative military duty with a single employer in order for federal benefits and protections to continue.

The employee is required to provide a copy of impending orders for military duty to their immediate supervisor or manager. If employed for less than one year, the employee must also provide a list of time previously spent in recognized military service. The department shall submit a Personnel Action Form to Human Resources to record the employee's military leave of absence accordingly. If employee is not eligible for military leave pay in accordance with this policy and the Fringe Benefits and Salary Plan, the leave will be processed as a leave of absence without pay or at the employee's option by utilizing accrued vacation pay. The employee is responsible for providing a certificate showing satisfactory completion of service upon returning to work (if temporary leave, no certificate

is required). The department shall send a Personnel Action Form to Human Resources returning employee from military leave.

Add Section regarding National Guard and Proclamation of State of Extreme Emergency. Government Code Section 395.05 states:

(a) Any public employee who is a member of the National Guard, shall be entitled to absent himself from his duties or service, without regard to the length of his public service, while engaged in the performance of ordered military or naval duty and while going to and returning from such duty, provided such duty is performed during such time as the Governor may have issued a proclamation of a state of extreme emergency or during such time as the National Guard may be on active duty in one or more of the situations described or included in Section 146 of this code provided such absence does not exceed the duration of such emergency. During the absence of such officer or employee while engaged in such military service during such emergency and while going to and returning from such duty, and for a period not to exceed 30 calendar days, he shall receive his salary or compensation as such officer or employee and shall not be subjected by any person directly or indirectly by reason of such absence to any loss or diminution of vacation or holiday privilege or be prejudiced by reason of such absence with reference to promotion or continuance in office, employment, reappointment to office, or reemployment.