



**City of Portland Core Values:**

**Anti-racism | Equity | Transparency | Communication | Collaboration | Fiscal Responsibility**

**6.07 Military Leave**

**Purpose**

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.

**Eligibility**

All employees of the City who are members of the Oregon National Guard, the National Guard or any reserve component of the Armed Forces of the United States or Public Health Service are entitled to a paid leave of absence from duties for a period not exceeding twenty-one (21) working days in any federal fiscal year (October 1<sup>st</sup> through September 30<sup>th</sup>) for active duty or inactive duty for training, state activity duty and duty under Title 10 or 32 of the United States Code, 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

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**Requesting Military Leave**

Any employee called to active duty must notify their supervisor and their Bureau HR Business Partner or HR Manager, 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 (5) years unless extension is required in accordance with ORS 408.290 and Federal Law. Such employee shall provide verbal or written notice of military service to their bureau and their bureau HR Business Partner or HR Manager.

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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 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 31 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 32-180 days**, the employee shall request reemployment with the appointing authority not later than fourteen (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 their former position if the period of service did not exceed 90 days.

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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**

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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**

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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. Military leave shall be in addition to any regular leave for which an officer or employee may be entitled.

**Healthcare Benefits**

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**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 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. 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 twenty-four (24) months, and will waive the two percent (2%) administrative fee, for the dependents of City employees who are called to applicable duty for a minimum of 31 days 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 thirty-one (31) days, their City paid coverage for themselves and their dependents will continue.

## **Other Benefits While On Military Leave**

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### **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.

### **Disability**

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

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### **Flexible Spending Accounts**

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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 Health and Financial Benefits Office. 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.

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. 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. \*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 thirty-one (31) days or more.

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**Administrative Rule History**

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