

	City of Cedar Park Human Resources Policy Manual		
	Military Leave		
	Number: E-6	Revision: 1	Effective Date: May 10, 2018

1.0 Policy

The City shall comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Section 4311 et seq. and Texas Government Code Section 437.202, as they may be amended, along with related regulations governing employees in reserve or active military service and will not discriminate against employees who serve in the military. The City further supports its employees and their uniformed service and provides them with a number of military leave benefits. However, a temporary employee who has a brief or non-recurrent position with the City and who has no reasonable expectation that his/her employment with the City will continue indefinitely or for a significant period of time is generally ineligible for reemployment rights under this policy, pursuant to 38 U.S.C. Section 4312(d)(1)(C), as amended.

2.0 Procedure/Rule

- 2.1 This Policy covers employees who serve in the uniformed services on a voluntary or involuntary basis, including active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty, undergoing an examination to determine fitness for duty, service with the National Urban Search and Rescue Response System, and performance of funeral honors duty, as permitted by law and as defined by 38 U.S.C. Section 4303, as amended.

- 2.2 Notice to City of Need for Leave. An employee must provide as much advance written or verbal notice to the City as possible for all active military duty (unless giving notice is impossible, unreasonable, or precluded by military necessity). Absent unusual circumstances, such notice shall be given to the City no later than the first work day after the employee receives the military orders. To be eligible for paid military leave, an employee shall complete and submit the necessary documentation, including the official documents setting forth the purpose of the leave and, if known, its duration. This documentation shall be given to Human Resources as far in advance of the leave as possible, but no later than five (5) business days after the employee provides notice of the active duty military orders.

2.3 Paid Leave for Training and Duty.

2.3.1 Paid Leave For Up to 15 Days. An employee shall be eligible for paid leave for military duty for a maximum of fifteen (15) workdays (120 hours, or 180 hours for an employee in a shift firefighter position), during the federal fiscal year (October 1 through September 30). This leave may be used when an employee receives orders for training or duty approved by proper military authority. The paid leave days may be consecutive or scattered throughout the year.

2.3.2 Military Leave Time Account. Section 143.075 of the Texas Local Government Code authorizes Police Officers and Firefighters to donate any paid leave time to a Military Leave Time Account for their respective department.

The Military Leave Time Account shall benefit a Police Officer or Firefighter who:

- Is a member of the Texas National Guard or the armed forces reserves of the United States;
- Was called to active federal military duty while serving as a firefighter or police officer for the municipality;
- Has served on active duty for a period of 3 consecutive months or longer; and
- Presents valid Military Orders along with a completed request form to the Human Resources Department in accordance with this Policy.

2.3.3 Other Paid Leave. An employee who is not eligible for paid military leave, has exhausted all available paid military leave and/or does not qualify for Military Leave Time Account may, at his/her option, use accrued vacation leave, holiday leave, and compensatory time to cover his/her military absence from work.

2.3.4 Unpaid Leave. After an employee has exhausted all available paid military leave (including any other allowable paid leave time under 2.3.3 that the employee chooses to use to cover a military absence), the employee shall be placed on leave without pay for up to 5 years.

2.4 Benefits. The City will continue to provide employees on paid military leave with the following City benefits:

2.4.1 Group Health. While an employee is on paid military leave (or any military leave of less than 31 days), the City shall continue to pay its portion of the monthly premium for group health benefits.

When military leave is unpaid, the employee may elect to continue group health coverage under USERRA for the lesser of: 1) the 24 month period beginning on the date on which the employee's absence for the purpose of performing service begins; or 2) the period beginning on the date on which the employee's absence for the purpose of performing service begins and ending on the date reemployment rights expire. Or, under COBRA for up to 18 months following separation of employment for himself/herself and eligible dependents. An employee must pay 102% of the applicable premium to cover the cost of elective continuation coverage under the City's group health plan.

Upon an employee's return to employment following military service, the City shall provide health insurance coverage immediately, even if a waiting period is normally required for new or returning employees. In addition, a returning employee shall not be subjected to exclusions from coverage unless the exclusions apply to injuries or conditions that were incurred as a result of military service.

2.4.2 Other Benefits. While on paid military leave, pursuant to section 2.3.1, or while using accrued vacation or comp time, an employee continues to accrue vacation, sick leave and other benefits provided to other employees on paid leave. Benefit accruals, such as vacation and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave and/or is receiving pay from the Military Leave Time Account. While on unpaid military leave or while utilizing the Military Leave Time Account, benefit accruals shall be suspended and shall resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, he/she shall be treated as though he/she was continuously employed for purposes of determining accrual rates based on length of service, such as vacation accrual.

2.5 Returning from Leave.

2.5.1 Re-employment Rights. An employee who completes his/her military service shall be re-employed in the position they would have had if they had been continuously employed, pursuant to 38 U.S.C. Section 4313, as amended.

2.5.2 Deadline to Notify City of Intent to Return to Work. Pursuant to 38 U.S.C. Section 4312, as amended, the deadline for an employee to return to work and/or notify the City that he/she intends to return

to work following military leave depends upon how long the employee's military service lasted:

- For service of **less than 31 days**, employees must report not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of service and the expiration of an 8-hour period allowing for the safe transportation of the person from the place of service to their residence.
- For service **between 31 days and 180 days**, employees have 14 days following their release from service to apply for reemployment.
- For service of **more than 180 days**, employees have 90 days following their release from service to apply for reemployment.

These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevents him/her from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.

- 2.5.3 Required Documentation. To qualify to return to work, an employee returning from leave shall provide to the Director of Human Resources, documentation of the length and character of his/her military service. Also, if the military leave lasted more than 31 calendar days, the employee must submit documentation of discharge or release under honorable conditions. Such documentation shall be provided not later than the deadline for returning to work stated in 2.5.2.
- 2.5.4 Rights to Continued Employment. An employee who serves in the military for more than 180 days will not be discharged by the City without cause for one year following the date of his/her reemployment. An employee who serves for more than 30 days and less than 181 days shall not be discharged without cause for 180 days following the date of his/her reemployment. An employee who serves for 30 days or less is given no protection under federal law from discharge without cause.
- 2.5.5 Changed Circumstances. If the City's circumstances have changed to such an extent that it would be impossible or unreasonable to reemploy an employee, the City may not be required to reemploy an employee following his/her return from military leave. For example, a reduction-in-force that eliminates the position held by an employee returning from leave may excuse the City from its obligation to reemploy the employee. In addition, the City is not

required to make efforts to qualify returning employees for particular positions or to make accommodations for employees who suffered service-related disabilities when such efforts or accommodations would impose an undue hardship on the City.