



### Policies/Procedures Regarding Pay and Benefits While on Military Active Duty & Training

*November, 2019*

The City of Melrose ("City") values and supports each of its employees serving and/or called to serve in the military and strictly complies with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"). The following policies and procedures relate to pay and benefits in the event an employee is ordered to active duty or is otherwise required to perform service in the uniformed services, and in compliance with all federal and state laws.

#### Policies

##### **Military Leave Pay and Benefits while ordered to Active Duty under Title 10 U.S.C.**

The City pays employees ordered to active duty the difference between their military salary and city salary for a period of six months in accordance with Order No. 91-132. An employee's salary is defined as base pay excluding all stipends. If a holiday falls during the six-month period, the employee will receive holiday pay. For purposes of Military Leave Pay, base pay includes the Quinn bill and Longevity pay for members of the Police Department. For purposes of Military Leave pay, base pay includes all compensation rolled into base pay as set forth in the collective bargaining agreement for members of the Fire Department. Base pay is used when calculating military leave pay, i.e. if an employee's military base pay is higher than their City base pay, the first six months will be unpaid; however, the employee remains eligible for benefits for that six-month period.

The City will not require the employee to use accrued paid time off during a period of service in the uniformed services. However, an employee may use any accrued vacation, personal, or similar leave with pay during the period of service in order to continue receiving a paycheck with benefit deductions. Employees are not permitted to use accrued sick leave during their period of service. An employee is permitted to use accrued vacation or personal time for travel to their duty station. In accordance with USERRA, the employee must have enough time after leaving their shift or scheduled work day to travel safely to the uniformed service site. Depending on the specific circumstances, including the duration of service, the amount of notice received, and the location of the service; additional time to rest or to arrange affairs and report to duty may be necessitated by reason of service in the uniformed services.

Active Duty includes orders under 10 U.S.C. 688; 12301(a); 1230(g); 12302; 12304; 12305, and 14 U.S.C. 331; 332; 359; 360; 367; 712. Pay differential shall not include active duty for training and scheduled drills or training periods in the Army National Guard, Air National Guard, or as a reservist in the armed forces of the United States – see Compensation during Military Training below.

##### **Pay and Benefits during Annual Military Training and Inactive Duty Training**

While attending Annual Training and Inactive Duty Training, compensation will be paid in accordance with G.L. c. 33, §59 as adopted through Order No. 00-309 on April 18, 2000 and as further amended in March, 2019. Attendance for Annual Military Training and/or Inactive Duty Training by an employee may not exceed 40 days in any federal fiscal year (October 1 through September 30). Payroll Clerks will enter this time into MUNIS or IMC as Military Training Time. These 40 days do not roll-over from one federal fiscal year to another. The City may not require the use of any accrued vacation, personal, or similar leave with pay during Annual Military Training and/or Inactive Duty Training unless such time exceeds 40 days per federal fiscal year. In the event such time exceeds 40 days in any federal fiscal year, an employee will be given the option to go on unpaid status or use accruals. Benefits will continue uninterrupted.

## **Pay and Benefits for Additional Training Activities**

If an employee is ordered to active duty for training for a period greater than 30 days in any federal fiscal year, the City requires a letter from the employee's unit Commander before granting compensation and benefits described under Military Leave Pay and Benefits while ordered to Active Duty under Title 10 U.S.C.

## **Procedures before Leaving**

**We ask that you please do the following prior to taking Leave:**

- ✓ Submit the training schedule, orders or notice from your Commanding Officer to HR and your supervisor as soon as possible in order for us to plan accordingly and accommodate your military leave. Although USERRA does not specify how far in advance notice must be given to us, please provide notice as far in advance as is reasonable under the circumstances. The Defense Department "strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so."
- ✓ Please remember to inform and provide the updated version of your training schedule to HR and your Supervisor in the event it is amended.
- ✓ Follow the City's "Outprocessing Checklist for Leave."
- ✓ Forward "Notice to Employer-Employee's Military Active Duty Absence" to your Supervisor, the Retirement Office and HR. Inform the City about your decision to use accrued paid time off to extend your city paid leave and your decision to continue Insurance Coverage.
- ✓ Forward copies of your military orders to your supervisor and HR as soon as they are provided to you. Employees will receive compensation and benefits they are entitled to as long as they present a valid and current copy of your orders.

## **Benefit Information**

**Health Insurance for the first six months of Title 10 Activation (paid-benefit eligible portion of leave)**

- ✓ If you wish to terminate your health insurance while activated and enroll in TRICARE you are entitled to do so as long as your orders are for more than 30 days.
- ✓ If you wish to continue your health insurance, the City will contribute to the premium for the first 6 months of paid-benefit eligible military leave. If you are being paid, we will continue to deduct your contribution from your paycheck. If you are unpaid, you can pay by check for the employee cost.
- ✓ At the end of the six months, you (and your dependents, if applicable) can:  
**Option 1:** Choose to enroll in TRICARE, the military's insurance plan or,  
  
**Option 2:** You can remain a member of the City's plan under the same guidelines and definitions of COBRA - you are responsible for paying 102% of the premium on a monthly basis and may remain enrolled in the plan for a maximum of twenty-four (24) months. You will pay the G.I.C. directly.
- ✓ While on **Annual Military Training** an employee's health benefits and deductions will continue.

**What you need to do:** Submit "Notice to Employer Military Active Duty Absence" to HR.

**Questions?** Call HR at 781-979-4145. For more information on TRICARE go to their website at [www.tricare.mil](http://www.tricare.mil)

### **Opt Out Incentive**

- ✓ An employee who is enrolled in the Opt Out Incentive Program will continue to receive the monthly incentive pay while on the paid/benefit eligible portion of their leave. Once an employee is on the unpaid/non-benefit eligible portion of their leave, the incentive payments will end. Once an employee returns to paid/benefit eligible employment the incentive payments will resume. Employees will not receive retroactive Opt Out Incentive for the unpaid or non-benefit eligible portion of their military leave.

### **Life, Disability, Dental Insurance while ordered to Active Duty under Title 10 U.S.C.**

- ✓ If an employee is on paid/ benefit-eligible status (first six months of the leave), the insurance policies remain in effect. If an employee is on the unpaid/ non-benefit eligible portion of their military leave, the policy terminates. Once reinstated to active employment, they may reenroll as an employee in the plans.
- ✓ Life and disability policies have certain exclusions for military leave. The life insurance policy excludes payment of Accidental Death and Dismemberment benefits related to any act of war, while serving the military or within six (6) months after termination of service in the military forces. The disability insurance excludes payment of benefits for any act of war, participation in a riot, insurrection or rebellion. Any claims will be reviewed by Boston Mutual and Allstate, respectively, and paid in accordance with their policies.

### **Flexible Spending Account**

- ✓ The City of Melrose has adopted The HEART (Heroes Earnings Assistance and Relief Tax) Act of 2008. As a member of a reserve unit called to duty, you may request a Qualified Reservist Distribution (QRD) which is a withdrawal of all or a portion of the amount remaining in your Health Flexible Spending Account. You can only request this distribution if you are called to active duty for a period of 180 days or more or for an indefinite period. You can receive the amount you have actually contributed minus any reimbursements you have already received (or are in the process). The amount you request may be adjusted if needed to conform to your actual account balance. You must request QRD before the last day of the Plan Year. You can only request 1 QRD for a Plan Year (July 1- June 30).

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## **Payroll Information**

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### **Clothing Allowance**

- ✓ An employee will receive clothing allowance if they are on the paid or benefit-eligible portion of their military leave (first six months). If on unpaid leave or non-benefit eligible portion of their military leave, they will not receive a check for clothing allowance. When employees return to employment, they will again become eligible for the allowance going forward. Employees will not receive retroactive Clothing Allowance payment for the unpaid or non-benefit eligible portion of their military leave.

### **Compensation Increases**

- ✓ Consistent with USERRA, if an employee is entitled to a step increase, COLA, or contractual increase while on unpaid leave they will receive this additional compensation effective on the date they return to employment. Any entitled increase while on unpaid leave is not retroactive to the “anniversary date”. If the date of the increase falls in the first six months of paid leave or during paid Training Leave they will receive it until going on unpaid leave, then it will resume on the date of return.

### **Paid Time Off Accruals (PTO)**

- ✓ Since the City’s policy considers an employee on “paid” or “benefit eligible” status for their first six months of military leave, an employee whose six month period includes the month of January will receive PTO annual accruals. If an employee is on the unpaid or non-benefit eligible portion of their military leave as of January 1<sup>st</sup> they will not receive annual accruals. After the first six months of paid/benefit eligible leave, previously accrued PTO will be frozen and available once they return. Upon return from military leave an employee will receive a prorated number of PTO days for the remainder of the calendar year, consistent with USERRA, unless they had already earned PTO annual accruals in January of that same calendar year. Employees will not receive retroactive Accruals for the unpaid or non-benefit eligible portion of their military leave.

For example, if an employee is on unpaid/non-benefit eligible leave for an entire calendar year they will receive no vacation, sick, accruals for that year.

In the event an employee's anniversary date falls during their unpaid/non-benefit eligible leave, they will receive the additional vacation week in their "accruals bank" as defined in collective bargaining agreements and the employment manual.

After returning from military leave, an employee will be permitted to use carryover vacation time until December 31 of the calendar year following their return. This applies to carryover time balances that predate the commencement of their military leave, and to carryover time balances as of December 31<sup>st</sup> of the year an employee returns from military leave. Procedures defined in the CBA, employment manual or by department practice will also be followed as it relates to vacation carryover and military leave.

An employee is not required to use their vacation time or other PTO while on leave but they can use it if they choose.

#### **Annual Sick Time Incentive**

- ✓ An employee will receive Annual Sick Time Incentive if they are on the paid-benefit eligible portion of their military leave (first six months). If on unpaid-non-benefit eligible leave, they will not receive Annual Sick Time Incentive. When employees return to employment, they will again become eligible for the Incentive going forward. Employees will not receive retroactive Sick Time Incentive for the unpaid or non-benefit eligible portion of their military leave.

#### **Pension (Years of Service/Seniority)**

- ✓ Submit "Notice to Employer Military Active Duty Absence" to the Retirement Office. Employees on military leave who return to work are entitled to the same seniority they had on the date the leave began, plus the additional seniority and rights to benefits they would have attained if they remained continuously employed.

### **Procedures upon Returning**

#### **Reemployment**

Consistent with USERRA an employee who has been honorably discharged or released from active duty will be reemployed in the position the employee would have held if continuously employed. If the employee's period of military service was more than 90 days, the employee will be reemployed in a position of like seniority, status and pay. He or she must be deemed qualified to perform the duties of that position. The City will make reasonable efforts to help the employee become qualified to perform the duties of the position.

#### **Reemployment Timetable**

To be eligible for protection under USERRA, the service member must report back to work or apply for reemployment within the following guidelines:

- 1-30 days of service Report next scheduled work day \*
  - 31-180 days of service Apply within 14 days following completion of service.
  - 181+ days of service Apply within 90 days following completion of service.
- \* After 8 hours rest plus normal travel time from military training site to place of civilian employment.

#### **Please do the following Upon Your Return from Leave:**

- ✓ Present military discharge papers and "Notification Letter to Employer-Employee's Military Active Duty Return" to HR as soon as possible (within a week of return to work) and schedule a meeting in order to **reinstate your benefits**. The City of Melrose follows the Rules of Reemployment as defined in USERRA. Employees are encouraged to become familiar with these regulations.

Employees on military leave who return to work are entitled to the same seniority they had on the date the leave began, plus the additional seniority and rights to benefits they would have attained if they remained continuously employed.

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## Questions?

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**Human Resources:** Marianne Long (781) 979-4146 [mlong@cityofmelrose.org](mailto:mlong@cityofmelrose.org)  
Polly Latta (781) 979-4145 [platta@cityofmelrose.org](mailto:platta@cityofmelrose.org)  
Fax (781) 979-4246

**Retirement:** Adam Travinski (781) 979-4151 [atravinski@cityofmelrose.org](mailto:atravinski@cityofmelrose.org)

**TRICARE** [www.tricare.mil](http://www.tricare.mil)

**USSERA Code of Regulations** [www.dol.gov/vets/regs/fedreg/final/2005023961.htm](http://www.dol.gov/vets/regs/fedreg/final/2005023961.htm)

**U.S. Department of Labor** [www.dol.gov/vets/programs/userra/index.htm](http://www.dol.gov/vets/programs/userra/index.htm)

**Employer Support of Guard & Reserves (ESGR)** [www.esgr.mil](http://www.esgr.mil)

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