

City of Red Bluff
Administrative Policies & Procedures – Personnel Manual

Subject: Military-Related Leave		Number: 22-43
		Effective Date: 6/18/2024
Departments Affected: All		Supersedes (Number/Date): 22-43 10/17/2023
Authority: Section 2.82-A. Red Bluff City Code	File References:	
	Approved: Approved by City Council on: 6/18/2024	

Overview: Military Duty Leave of Absence is a leave of absence from employment to engage in the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. This includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by federal law. The City of Red Bluff will grant employees with military duty leave and reemployment rights pursuant to federal, state, and local laws.

Applicable to: All employees

Guidelines: The Uniformed Services Employment and Reemployment Rights Act (USERRA) and the California Military and Veterans Code protect the employment rights of individuals who must be voluntarily or involuntarily absent from their civilian employment positions to serve in the U.S. military. USERRA and the California Military and Veterans Code also prohibit employers from discriminating against past and present members of the uniformed services. Federal and state laws apply to all service members, with a focus on those that have civilian careers while serving in the Armed Forces of the United States, National Guard, and Naval Militia.

A regular City of Red Bluff employee, who is ordered to military duty as described above, is eligible for an approved military duty leave of absence regardless of probationary employment status.

Those ordered to inactive duty training, such as drills or regularly scheduled weekend meetings, may be eligible for a military duty leave of absence, however inactive duty is unpaid.

Paid Temporary Military Duty Leave of Absence

Paid Temporary Military Duty Leave of Absence is a leave of absence from City employment to engage in ordered active military duty, 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,

City of Red Bluff
AP&P 22-43 Military Related Leave Policy

National Guard, or the Naval Militia.

Employees who meet the eligibility requirements for a Paid Temporary Military Leave of Absence for ordered active military duty are entitled to receive his or her full salary and compensation during the first 30 calendar days of leave in any one fiscal year. To be eligible for a paid temporary military duty leave of absence, employees must meet the following requirements:

- Must be a regular City of Red Bluff employee, occupying a regularly budgeted position and working a minimum of 20 hours per week (part-time seasonal employees are not eligible).
- Must have at least one year of employment at the City of Red Bluff immediately preceding the date upon which ordered military leave begins. Time previously spent by the employee in a recognized military service shall be used in computing the one year of employment. The employee may be asked to provide satisfactory evidence of prior military service when their total combined City service and military service is equal to the minimum of one (1) full calendar year.
- Any employee receiving pay from the City during Military Leave after the first 30 calendar days have expired can only earn up to their full salary amount, either in conjunction with Military Pay or with regular City pay. An employee cannot earn both their full, regular rate of pay with the City and Military pay on top of that unless the employee is eligible as defined above, and it is within the first 30 calendar days of an approved military leave.

Employees may be on a paid temporary military duty leave of absence for ordered active military duty more than once per fiscal year. However, pay may not exceed 30 calendar days in any one fiscal year. If the employee remains on a military duty leave of absence after exhausting the 30 calendar days of paid leave, he or she may continue to remain in a paid status by using accumulated vacation time, compensatory time off, or any other accrued paid time off. The employee may also request leave without pay.

National Guard

National Guard members called to active duty shall be entitled to a paid military duty leave of absence without regard to the length of City service. National Guard employees called to active duty are entitled to their full salary and compensation for up to the first 30 calendar days of any declared emergency regardless of the number of emergencies declared in a fiscal year, provided such duty is performed during a Governor proclaimed state of emergency or other active duty as described in the Military and Veteran's Code.

Special Note Regarding Paid Military Leave Calculations: The 30 days allowed for a paid military duty leave of absence are calendar days. For example, if an employee is on a military duty leave of absence for 14 calendar days, and is eligible to receive pay, they will only receive pay for the actual work time missed. In this example, if the employee was scheduled five (5) days per week (40 hours), they would receive ten (10) days of paid leave. However, the whole 14 calendar days of leave would count against the 30 calendar days of paid temporary military duty leave allowable per fiscal year.

Accrual and Use of Leave During Military Duty Leave

City of Red Bluff
AP&P 22-43 Military Related Leave Policy

Employees shall not accrue vacation, sick leave, or other paid leaves, during the period they are on an unpaid military duty leave of absence. Employees are permitted to use accrued leave balances while on a military duty leave of absence. However, the City does not require an employee to use accrued leave balances while on a military duty leave of absence. Sick leave may not be used during a military duty leave of absence.

Health Benefits

Employees on unpaid leave status during a military duty leave of absence may elect to continue their health insurance benefits at the normal employee share of cost. The City will continue to pay the employer share of health insurance benefits for the duration of any military duty leave of absence. If an employee elects to use their leave accruals, they may continue their health insurance benefits at the normal employee share of cost. Arrangements for the employee share of health insurance payments should be made with the Finance Department prior to the start of military leave if an unpaid leave status is anticipated.

The City's life insurance policy does not cover individuals while they are actively serving in the military.

Pension Benefits

An employee reemployed from a military duty leave of absence may receive service credit in accordance with the California Public Employees' Retirement System laws and policies. Please reference the CalPERS Military Service Credit Options publication guide for additional information.

Return to Duty and Reemployment Rights

An employee shall notify Human Resources and their Department Head of an anticipated early return from a military duty leave of absence as soon as possible. Employees returning from military leave due to an illness or injury will be required to receive proper medical clearance prior to returning to work.

An employee returning from a military duty leave of absence shall have a right to return if released, separated, or discharged under conditions other than dishonorable, to their former position within six (6) months after the termination of active service, or after the emergency no longer exists. Upon returning from a military duty leave of absence, employees shall be reemployed in their former position as long as the position still exists. In the event the position was abolished during the employee's absence, they shall be reinstated to a vacant position of like seniority, status, and pay for which he or she is qualified. If no position exists, the employee shall have the same rights and privileges they would have had if they would have occupied the position when it ceased to exist and had not taken a temporary military duty leave of absence.

Health insurance coverage shall be reinstated upon the employee's return to work. Benefits will be effective without any waiting periods.

Time spent on a military duty leave of absence counts as service credit for any calculation of seniority, determination, promotion, or other decision dependent upon length of employment, as if the employee had remained continuously employed. This includes any salary adjustments, vacation accrual rate and seniority ranking,

City of Red Bluff
AP&P 22-43 Military Related Leave Policy

which may have occurred during the employee's absence. For step advancement purposes, an employee who has returned from a military duty leave of absence shall maintain the same salary anniversary date they had prior to the military duty leave of absence. If the employee did not complete an initial probationary period prior to the start of a military duty leave of absence, the employee's initial probationary period shall be extended by the number of calendar days the employee was on military leave when he or she returns to work.

In the case of an employee who incurs a disability or aggravates an existing injury while on a military duty leave of absence and is no longer capable of performing the essential functions of their position, the employee shall be reemployed in an alternate position. The alternate position will be equivalent in seniority, status, and pay. If no position exists, the employee shall be reemployed in a position which is the nearest approximation to a position in terms of seniority, status, and pay. In each circumstance, consideration will be made in regard to the employee's qualifications, as well as the employee's ability to become qualified with reasonable efforts by the City.

Temporary or Seasonal Positions

The City is not required to reemploy an employee if the employment left was for a brief, nonrecurring period and there is no reasonable expectation the employment would have continued indefinitely or for a significant period.

MILITARY RELATED FAMILY LEAVE

The City of Red Bluff will grant military-related family leave to eligible employees in order to address issues arising from military deployment, care for an injured service member, or to spend time with a military member on military deployment leave.

Qualifying Exigency Leave allows a family member to take up to 12 weeks (480 hours) unpaid leave in a 12-month period. The military member must be the employee's spouse, parent, son, or daughter. This leave may be used to:

- Address issues arising from short-notice deployment.
- Make or update financial/legal arrangements arising from covered active duty.
- Attend counseling for yourself, the military member, or the child of the military member when the need for counseling arises from the active duty of the military member.
- Attend military events and related activities.
- Spend up to fifteen calendar days with a military member on Rest and Recuperation leave during active duty.

Military Caregiver Leave allows an employee up to 26 weeks (1040 hours) of unpaid leave in a 12-month period to care for a covered service member with a serious injury or illness.

- The military member must be the employee's spouse, parent, son, daughter, or next of kin.
- A covered service member may be either a current service member or a

City of Red Bluff
AP&P 22-43 Military Related Leave Policy

veteran of the Armed Forces.

Spouse on Leave for Military Deployment Leave allows an employee who works 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves to take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict.

Employees requesting a Military-Related Family leave of absence must meet the minimum requirements. To be eligible, an employee must have worked for the City at least 12 months and worked at least 1,250 hours in the 12 months immediately preceding the commencement of leave. If the need for leave is foreseeable, the employee must give 30 days prior notice. If the leave is not foreseeable, the employee must give notice as soon as practicable.

If an employee qualifies for more than one statutory leave, all applicable leaves will run concurrently. The City of Red Bluff uses the rolling 12-month period measuring backward method to establish the 12-month period for FMLA / CFRA. However, for military caregiver leave, the first day of the 12-month calendar begins on the first day the employee takes leave for this reason and ends 12- months later. The 26 workweeks of military caregiver leave are not in addition to the regular 12 weeks of leave available for other FMLA purposes. An employee who uses FMLA for their own serious health condition or the serious health condition of a qualifying family member before, during, or after the established 12-month calendar period for military caregiver leave, will have their FMLA entitlements counted according to the 12-month period rolling backward. Keeping in mind, an eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the single 12-month calendar period used for military caregiver leave.

Spouse on Leave for Military Deployment Leave is not regulated by FMLA. Employees will follow procedure under "Employee" below to request this type of leave.

The City will continue to pay the employer's portion of the group health insurance under the same terms and conditions as long as the employee is on Military-Related Family Leave. The employee will be responsible for their portion of the group health insurance whether or not he/she is in paid status.

For Military Caregiver Leave, the employee must:

- Make notification to their immediate supervisor or designee.
- Complete a Leave of Absence Request Form.
- Submit a completed Certification of Health Care Provider. The form must be completed in its entirety by the qualifying family member's physician within 15 days of the request for leave. Incomplete certifications will be returned to the employee for follow up with the physician.
- Complete a Coordination of Benefits Form.

See City of Red Bluff AP&P 22-33: Coordination of Benefits for additional information on coordinating Military Caregiver Leave benefits.

For Qualifying Exigency Leave, the employee must:

- Make notification to their immediate supervisor or designee.

City of Red Bluff
AP&P 22-43 Military Related Leave Policy

- The employee must submit written documentation once per deployment certifying their spouse will be on covered active duty or will be called to covered active duty status. Written documentation includes a copy of the servicemember's active duty orders (or other official documentation used by the military).
- Employees will be required to use paid leave accruals for Qualifying Exigency Leave. The employee may choose to use vacation or compensatory time during this period to remain in paid status. In the event the employee does not have sufficient leave accruals to cover the leave of absence, leave without pay will be authorized for the remainder of the protected leave.
- Complete a Leave of Absence Request Form.
- Complete a Coordination of Benefits Form.

For Spouse on Leave for Military Deployment Leave:

- Within two business days of receiving official notice that their spouse will be on leave from deployment, the employee must notify their supervisor and Human Resources of their intention to take the leave.
- The employee must submit written documentation once per deployment certifying their spouse will be on leave from deployment during the time the leave is requested. Written documentation includes a copy of the servicemember's active duty orders (or other official documentation used by the military).
- Employees will be required to use paid leave accruals for Military Deployment Leave. The employee may choose to use vacation or compensatory time during this period to remain in paid status. In the event the employee does not have sufficient leave accruals to cover the leave of absence, leave without pay will be authorized for the remainder of the protected leave.
- The employee may take more than 10 days leave if approved in advance by the employee's supervisor.

It is the employee's responsibility to complete these forms in a timely manner. Failure to provide sufficient information needed to determine eligibility for protected leave may delay and/or cause the request for protected leave to be denied.

References: Military and Veterans Code §389-399.5; Uniformed Services Employment and Reemployment Rights Act of 1994, U.S. Code Title 38, §4301, et seq.