	COOK COUNTY BUREAU OF HUMAN RESOURCES	
MILITARY SERVICE LEAVE POLICY (NON-FMLA)		
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A. OVERVIEW

Cook County (“County”) provides employment related protections and benefits to employees who are called to perform uniformed services, whether in the reserves or on active duty, in accordance with Federal and State law. Specifically, protections are afforded to members of the United States Marine Corps, Army, Navy, Air Force, Coast Guard, Coast Guard Reserve, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service, Civil Air Patrol, and Merchant Marines when performing official duties in support of an emergency. Such protections and benefits are also provided to members released from military duty with follow-on care by the Department of Defense and to employees for any period actively spent in military service and others designated by the President of the United States in the time of war or emergency. Uniform Services Employment and Re-Employment Rights Act of 1994 (“USERRA”), 38 U.S.C. §§ 4301–4335; Illinois Servicemember Employment and Reemployment Rights Act (“ISERRA”), 330 ILCS 61 et seq.

B. PURPOSE

To provide the policy and procedures that are to be followed when notifying the County of a Military Service Leave absence or to receive employment-related protections and benefits when fulfilling military duties.

C. INTENT

This policy is intended to be interpreted consistent with and subject to applicable law. It supersedes all previous policies and/or memoranda that may have been issued from time to time on subjects covered in this policy. This policy is not intended to supersede or limit the County from enforcing provisions in any applicable collective bargaining agreement. Should any provision in this policy conflict with a specific provision in the Personnel Rules, the provision(s) in this policy shall take precedence.

D. SEVERABILITY


If any section or provision of this document should be held invalid by operation of law, none of the remainder shall be affected.

E. JURISDICTION

The Cook County Bureau of Human Resources (“BHR”) is authorized to develop and issue policies for the effective management of Cook County employees, pursuant to Section 44-45 of the Cook County Code of Ordinances.

F. AREAS AFFECTED

This policy applies to all Cook County employees in Offices under the President and/or covered by the Cook County Employment Plan.

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G. NONDISCRIMINATION

Cook County prohibits the discriminatory application, implementation, or enforcement of any provision of this policy on the basis of race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, housing, or any other protected category established by law, statute or ordinance, as provided in Section 44-53 of the Cook County Code of Ordinances.

The County additionally prohibits discrimination, retaliation, and harassment on the basis of military service or military discharge status, regardless of whether the service was in the past, present, or future.

H. EMPLOYEE AND MANAGEMENT RESPONSIBILITIES

The County’s BHR Leave Coordinator (or designee) will monitor County practices to ensure compliance with, and answer questions concerning, the information presented in this policy. If a department manager/supervisor acquires knowledge that an employee’s absence may be for a Military Service Leave-qualifying reason, he or she should immediately notify the BHR Leave Coordinator.

I. DEFINITIONS

Military Discharge Status means the fact of having been discharged from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia other than by a dishonorable or bad conduct discharge, or discharge under unsatisfactory conditions.

Differential Pay means pay due the employee when his or her daily rate of compensation for military service is less than his or her daily rate of compensation by the County. Such pay applies to days on which the employee would have otherwise been scheduled or required to work as a County employee.

J. POLICY AND PROCEDURES; MILITARY SERVICE LEAVE

Cook County provides eligible employees taking part in a variety of military duties with employment-related protections and benefits under this policy. Such military duties include leaves of absence taken by members of the uniformed services, including Reservists and National Guard members for training, periods of active military service, and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. Subject to certain exceptions under the applicable laws, these benefits are generally limited to five (5) years of leave of absence.

1. ELIGIBILITY

All full-time and part-time Cook County employees are eligible for Military Service Leave.

2. BASIS

County employees may take Military Service Leave for any period actively spent in military service, including:

- a. Basic training;



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- b. Special or advanced training, whether or not within the State, and whether or not voluntary;
- c. Annual training;
- d. Required military related medical examinations; and/or
- e. Any other training or duty required by the United States Armed Forces.

3. CONDITIONS

- a. A Military Service Leave of absence has a limit of five (5) years; that is the cumulative length of time that an employee may serve in the military and remain eligible for re-employment. However, the following categories of military service are not counted toward the five-year service limitation:
 - i. Service required beyond five years to complete an initial period of obligated service;
 - ii. If the individual, through no fault of his or her own, is unable to obtain a release within the five-year limit;
 - iii. Required training for reservists and National Guard members;
 - iv. Service under an involuntary order to, or to be retained on, active duty during a domestic emergency or national security-related situations;
 - v. Service under an order to, or to remain on, active duty (other than for training) because of a war or national emergency declared by the President or Congress;
 - vi. Active duty (other than for training) by volunteers supporting “operational missions” for which Selected Reservists are ordered to active duty without their consent;
 - vii. Service by volunteers who are ordered to active duty in support of a “critical mission or requirement” in times other than war or national emergency and when no involuntary call-up was in effect; or
 - viii. Federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion, or to execute the laws of the United States.
 - ix. State service by members of the National Guard called into action by the Governor during times of emergency.
- b. Military Service Leave may be taken in a block of time, on an intermittent basis, or in the form of a reduced work schedule.



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- c. Benefits and Compensation; Full-time Employees. Full-time employees, other than independent contractors, on Military Service Leave shall continue to receive benefits in the same manner as afforded in the normal course of County employment and County compensation as follows, unless an employee’s collective bargaining agreement is more generous:
 - i. *Concurrent Pay for Annual Training.* During leaves for annual training, the County will continue to pay an employee his or her regular compensation, without any offset of military pay.
 - ii. *Pay Differential for Non-Annual Training.* During leaves for basic training; for special or advanced training, up to 60 days; and, for any other training or duty required by the Armed Forces, the employee may be entitled to pay differential if the employee has submitted a completed Leave Earnings Statement and the employee’s military pay is less than his or her regular compensation as a County employee. Pay differential will be calculated by subtracting the amount equal to an employee’s military active base pay from the employee’s regular compensation. An employee’s military base pay excludes any additional pay received while assigned to a combat zone, hardship duty pay, and family separation pay.
 - iii. *Pay Differential for Active Duty with Pay.* During periods of active duty military service, employees are entitled to a pay differential during the entire period of active duty military service if the employee has submitted a completed Leave Earnings Statement and the employee’s military pay is less than his or her regular compensation as a County employee. Pay differential will be calculated by subtracting the amount equal to an employee’s military active base pay from his or her regular compensation. An employee’s military base pay excludes any additional pay received while assigned to a combat zone, hardship duty pay, and family separation pay. Employees may elect to use accrued vacation, overtime, or compensatory time in lieu of receiving differential pay.
 - iv. *Pay Differential for Active Duty without Pay.* Differential pay shall not be given to employees on active duty without pay.
- d. Benefits and Compensation; Part-time Employees. Part-time employees on Military Service Leave shall continue to receive benefits in the same manner as afforded in the normal course of County employment. However, they will not receive County compensation while on Military Service Leave, unless mobilized to active duty military service by order of the President of the United States, in which case, the employee may be entitled to pay differential if the employee has submitted a completed Leave Earnings Statement and the employee’s military pay is less than his or her regular compensation as a County employee.
- e. Communication. Employees on Military Service Leave are expected to be reasonably responsive to the BHR Leave Coordinator, their supervisor and/or department head during the leave.
- f. Health Insurance. Full-time and part-time employees on Military Service Leave are eligible to continue health coverage during the leave in the form and manner provided to full-time or part-time employees at the County, as follows:



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- i. For any Military Service Leave periods of 30 days or less, and for active duty military service, regardless of length, an employee must continue to pay health benefits payroll contributions in order to maintain health benefits coverage.
- ii. For Military Service Leave periods of 31 days or more for inactive duty military duty service, an employee must elect to continue health benefits coverage with the Department of Risk Management and pay the full premium cost of the health benefits coverage.
 - 1. Employees may elect to continue health coverage for a period that is the lesser of: 24 months from the commencement of military leave; or, the day after the date on which the employee fails to apply for or return for re-employment; and,
 - 2. Employees who elect continuation of coverage must provide notice to the County's Department of Risk Management at least two (2) weeks in advance of the date of departure for military leave, when practicable.
- g. Paid Time Off. Employees on Military Service Leave will accrue paid time off in the same manner as afforded in the normal course of County employment. Employees may use accrued paid time off during the leave, in accordance with the County's Personnel Rules.
- h. Holidays. Employees on Military Service Leave will receive holiday pay in the same manner as afforded in the normal course of County employment.
- i. Seniority. Employees on Military Service Leave shall accrue seniority time during the leave, as mandated by applicable law.

4. REQUIREMENTS

Failure to meet the following requirements may result in delay of Military Service Leave benefits.

- a. Notice. Unless military necessity prevents it, or is otherwise impossible or unreasonable, an employee should provide the BHR Leave Coordinator with notice of the need for leave two (2) weeks or 14 days in advance, or as far in advance as is reasonable under the circumstances.
- b. Notification. The employee should designate an absence in the Cook County Time and Attendance (CCT) System as Military Service related, or submit a completed Military Service Leave Notification Form to the BHR Leave Coordinator, to provide notice of the applicable Military Service Leave. A sample Military Service Leave Notification Form is contained in Appendix A.
- c. Supporting Documentation. To ensure timely processing and payment of any compensation, the employee shall provide the BHR Leave Coordinator with the following documentation, no less than two (2) weeks or 14 days in advance of the date of departure for military leave:
 - i. A copy of the employee's military orders, training notice, induction information, or equivalent documentation; and,



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- ii. Proof of military compensation, such as a current Leave and Earnings Statement, except during leaves for annual training.

Failure to do so may result in the County delaying a service-member employee's scheduled payment date, consistent with the employee's late submission of supporting documentation.

- d. Processing Military Service Leave. The Military Service Leave Notification Form will be processed by the BHR Leave Coordinator. Notwithstanding the above, Cook County will not, under any circumstance:

- i. Refuse to allow an employee to attend scheduled drills, annual training, or to report to active duty;
- ii. Require the employee to reschedule drills or training; or,
- iii. Require an employee to find a replacement.

5. RETURN TO WORK (REINSTATEMENT)


- a. An employee that is eligible for reinstatement will be restored to the position from which the employee left, with the same increases in status, seniority, and pay that were earned during the term of military service by employees in like positions, or to a position of like seniority, status, and pay. At the time of reinstatement, such employee must be qualified to perform the duties of the position from which leave was taken. However, the County will make reasonable efforts to train returning employees on new equipment, systems, or techniques, or to refresh job skills.

- i. Benefits.

- 1. Benefits for employees on military leave, including service requirements for promotions, seniority rights, and the accumulation of vacation and sick time, will continue to accrue as mandated by federal and state law.
- 2. An employee returning from Military Service Leave may be entitled to a salary adjustment, if he or she would have received an adjustment with reasonable certainty, but for his or her military service. To determine reasonable certainty, the County will consider factors including, but not limited to, the employee's work history and the work and pay history of other employees in the same or similar positions. This provision does not apply to probationary employees.

- ii. Health Insurance. Employees returning from military leave will be eligible for health benefits coverage.

- iv. *Pension*. For information about military leave service credit and/or pension adjustments, please contact the Cook County Pension Fund.

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v. *Protections from Discharge.* Certain employees from Military Service Leave are additionally eligible for protections from discharge as follows:

1. Under USERRA, service-member employees who exercise their re-employment rights cannot be discharged, except for cause:
 - A. Within one year from the date of re-employment if the period of military service was 181 days or more; or
 - B. Within 180 days if the period of service was 31-180 days.
2. Under the Illinois National Guard Employment Law, employees in the Illinois National Guard who exercise their re-employment rights following a period of State Active Duty cannot be discharged for one (1) year, except for cause.

For more information regarding discharge “for-cause,” refer to Rule 8 of the Cook County Personnel Rules.

b. *Veterans with Disabilities.* The County will employ the following three-part re-employment plan for individuals with military service-connected disabilities:

- i. The County will make reasonable efforts to accommodate the individual so he or she can perform the essential functions of the position the individual held prior to taking Military Service Leave;
- ii. If, despite reasonable accommodation efforts, the individual cannot perform the essential functions of the position held prior to taking military leave, the individual may be placed in a position of equivalent seniority, status, and pay, provided that he or she is qualified or could become qualified, with reasonable efforts by the County, to perform the essential functions of that position; or,
- iii. If the individual is not qualified for either of the positions described above, he or she may be reemployed in a position that, consistent with the circumstances of the case, most nearly approximates the position the individual held prior to taking military leave, in terms of seniority, status, and pay, provided that he or she is qualified or could become qualified, with reasonable efforts by the County, to perform the essential functions of that position.

For more information, contact the County’s Equal Employment Opportunity Office (EEO Office).

c. *Exceptions.* The County may deny reinstatement to employees if any of the following circumstances are met:

- i. The employee fails to apply for re-employment in a timely manner (see Time Limits, below);




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- ii. The employee held a temporary position which was on a brief, non-recurrent period, with no reasonable expectation that the employment would have continued indefinitely or for a significant period;
 - iii. The reinstatement would pose an undue hardship upon the County; or,
 - iv. The County's circumstances changed to the extent that re-employment is impossible or unreasonable.
- d. *Time Limits for Reinstatement.* Failure to return to work, or apply for re-employment within the specified time limits, may subject an individual to the County's Rules concerning unauthorized absence from work and may result in forfeiture of re-employment rights.
 - i. *Beginning of Next Work Period.* An employee returning from 30 or less days of Military Service Leave has until the beginning of the first regularly scheduled work period after the end of the calendar day of annual training, plus time required to return home safely and an eight (8) hour rest period. If this is impossible or unreasonable, then as soon as possible.
 - ii. *Two (2) Weeks or 14 Days.* An employee returning from 31-180 days of Military Service Leave must apply for re-employment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
 - iii. *90 Days.* An employee returning from 181 or more days of Military Service Leave must apply for re-employment no later than 90 days after completion of military service.
 - iv. *Two (2) Years.* Any employee who is hospitalized or convalescing because of a disability incurred or aggravated by military service has an extended period of up to two years following completion of military service to exercise his or her re-employment rights.
- e. *Supporting Documentation.* Employees returning from a Military Service Leave in excess of 30 days shall submit documentation establishing the following, upon request by the BHR Leave Coordinator:
 - i. The timeliness of the employee's application for re-employment;
 - 1. Department of Defense Form 214, Certificate of Release or Discharge from Active Duty;
 - 2. A copy of duty orders carrying an endorsement indicating completion of the described service;
 - 3. A letter from the Commanding Officer;
 - 4. A Certificate of Completion from military training school;
 - 5. A discharge certificate showing an employee's characterization of service;
 - 6. A copy of extracts from payroll documents showing periods of service; or,
 - 7. Other relevant documentation.
 - ii. That the five (5) year cumulative service limitation was not exceeded; and,

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- iii. The employee’s military service was characterized as honorable, under honorable conditions, or satisfactory.

In the event that such documentation is not readily available to the employee, the County may conditionally reemploy the returning employee pending submission of the substantiating documentation. The County may contact the military to verify and/or request information regarding proof of military service. If, after re-employment, the County receives documentation showing that application for re-employment requirements are not satisfied, the County may discharge the employee, effective as of the date the documents are received.

K. RESOURCES

General information and available resources may be obtained by contacting the County’s Employee Assistance Program (EAP) or respective Personal Support Program.

L. CONFIDENTIALITY

Cook County maintains confidentiality of information, to the extent required by applicable law.



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APPENDIX A

MILITARY SERVICE LEAVE NOTIFICATION FORM



COOK COUNTY BUREAU OF HUMAN RESOURCES MILITARY SERVICE LEAVE NOTIFICATION FORM

Check One New Leave of Absence Amendment of Original Leave Notification Extension of Leave

Employee Name (Last, First, MI) _____

Position Title _____ **Employee ID#** _____

Department Name _____ **Supervisor's Name** _____

Home Address (Street, City, Zip) _____ **Phone #** _____

Best Contact While on Military Leave (Phone/Email/Address) _____

Reason for Leave Annual Training Basic Training Special Advanced Training Active Duty
 Other (explain) _____

Last Day of Work Leave Start Date: _____ Leave End Date: _____

Documentation Provided Military Orders Training Notice/Induction Information
 Military Compensation Other (explain) _____

If no documentation at this time, explain _____

I anticipate returning to work on Date: _____ Time: _____

By my signature, I certify that this information is **true, correct and complete** to the best of my knowledge.
I further acknowledge that I have read and understand the Cook County Military Service Leave Policy.

Employee Signature _____ **Date** _____

FOR BHR USE ONLY

Notification of leave of absence processed YES NO (explain below) PENDING (explain below)

Pay Entitlement Differential Concurrent Other (explain below)

Date Employee Informed of Action _____ **Method of Notification** _____

Copies Distributed to 1. _____ via _____
2. _____ via _____
3. _____ via _____

Comments _____

BHR Leave Coordinator _____ **Date** _____
SIGNATURE

BHR Chief/Designee _____ **Date** _____
SIGNATURE