

***Military Leave***

The purpose of this policy is to provide employees with time-off from work for military service and to ensure compliance with local, state and federal laws relating to the employment of individuals in the uniformed services, including the *Uniformed Services Employment and Reemployment Rights Act* (USERRA), as amended, 38 U.S.C. §§4301-4334. This policy is designed in compliance with USERRA and will be construed in accordance with its provisions.

**1. ELIGIBILITY FOR LEAVE**

All employees are eligible to take military leave for uniformed service, including employees who are full or part-time, probationary, seasonal, temporary, elected, appointed, or at-will. There is no minimum amount of time an employee must have worked for the City to become eligible for leave under this policy. Leave will be granted for both voluntary and involuntary service.

The uniformed services includes: the Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard) or a Reserve component of one of these branches; the Public Health Service Commissioned Corps; the Maryland organized militia (Maryland Army National Guard, the Maryland Air National Guard, the Inactive National Guard, and the Maryland Defense Force); and any category of persons designated by the President in time of war or national emergency. The uniformed service also may include service the National Disaster Medical System, as provided in 42 U.S.C. § 300hh-11(e).

Leave may be taken for a variety of military activities, including (but not limited to) periods of active military service, active and inactive duty training, initial active duty training, funeral honors duty, and fitness-for-service examinations.

**2. NOTICE OF NEED FOR LEAVE**

Employees must provide advance notice to their supervisors before taking military leave, except in the rare case when advance notice is prevented by military necessity or would otherwise be impossible or unreasonable. Notice may be given orally or in writing and may be communicated by the employee’s military command.

Employees must provide notice to their supervisors (and a copy of their orders) as soon as they have knowledge of a service obligation. National Guard and Reserve members should provide their agencies with copies of annual drill and training schedules and orders as soon as they become available. Employees are responsible for notifying their agencies when orders have been updated or extended.

Before departing for leave, employees should complete a *Military Leave of Absence Form* (AM-204-11-1). Agencies will provide service members with a copy of the form as soon as notice is given. In situations where the employee’s military orders provide short notice of an impending

***Military Leave***

service obligation, agencies will work with the service member to gather the information requested on the form.

**3. STATUS DURING LEAVE**

Except as provided in Section 4 below, military leave is unpaid. Employees may at their election use their accrued vacation, personal, or compensatory leave during their absence. Sick leave may not be used. If accrued leave is not used, the employee’s unused leave balances will be restored upon return to City employment.

To use accrued leave, the employee must complete a *Military Leave of Absence Form* (AM-204-11-1). Accrued leave days will be applied consecutively at the start of military leave. Once the employee’s accrued leave elections are exhausted, the employee will be placed in an unpaid leave status.

**4. PAID MILITARY LEAVE**

An employee will receive *paid* leave for military service in the following two circumstances only:

Inactive Duty Training – Employees who are members of a state National Guard, a Reserve unit, or the Maryland militia will be paid up to fifteen (15) working days each fiscal year to attend military training. During such leave, employees receive their full City salary, in addition to military pay, with no loss of vacation, seniority, or performance rating. Any additional leave beyond the fifteen days will be without pay. Unused days will not carry over from year to year.

State Active Duty Service – Any member of the Maryland organized militia who is ordered to state active duty by the Governor of Maryland (usually in times of natural disaster or other public crisis) will be granted paid leave for all time spent in active duty service to the state as provided by MD. CODE ANN., Public Safety § 13-706. The employee will receive his or her full City salary, in addition to military pay, with no loss of vacation, seniority, or performance rating.

In order to receive paid military leave, employees must complete a *Military Leave of Absence Form* (AM-204-11-1) and attach a copy of their military orders. Eligibility for paid leave is subject to verification by the agency and must be reviewed and approved by the Department of Human Resources City agencies and the Department of Human Resources will review paid leave usage annually to ensure that it is awarded in accordance with this policy.

***Military Leave*****5. HEALTH BENEFITS**

During a military leave of absence, employees may continue City health benefits (including vision, dental, and prescription drug coverage) under the same pre-leave benefit elections as follows:

Service of 30 Days or Less – If the period of military service is expected to last 30 days or less, as in the case of National Guard and Reserve training, the City will automatically continue the employee’s health benefits at active employee rates, unless the employee elects to cancel coverage. Payroll deductions will continue for as long as the employee remains in pay status. Thereafter, the employee will be billed directly for any outstanding premiums.

Service of More than 30 Days – If the period of military service is expected to last more than 30 days, employees may elect to continue their City health benefits for up to 24 months or until the deadline for reemployment has passed, whichever comes first. The employee may continue coverage at the employee rate while exhausting accrued leave. Thereafter, the employee will be responsible for paying up to 102% of the premium cost, depending on the benefit.

To continue health benefits during leaves of greater than 30 days, an employee must elect to continue the coverage by completing a *Military Leave of Absence Form* (AM-201-11-1). The City will cancel benefits if an employee fails to make an election or does not make timely payments.

Health benefits for eligible employees and their dependents will be reinstated upon return to City employment. Reinstatement of health benefits will occur immediately upon the first day of reemployment without waiting periods or pre-existing condition exclusions, except for illnesses and injuries related to military service under certain plans.

**6. RETIREMENT BENEFITS**

Employees who qualify for reemployment after returning from military leave will be treated as if continuously employed for pension benefit purposes, and time spent on military leave will not be considered a “break in employment” for purposes of vesting and accruals.

For members of the *Employee Retirement System* (ERS) and *Elected Officials’ Retirement System* (EOS), credited service will continue during military leave, provided the employee qualifies for reemployment, returns to active City employment within one year of discharge from the military, and provides all required documentation.

***Military Leave***

Members of the *Fire & Police Employees' Retirement System* (F&P) will receive service credit for military leave during employment, with the City making all mandatory contributions the member would have made if he or she had continued regular full-time employment ("military service contributions"), provided the employee qualifies for reemployment under Section 9 of this policy, returns to active City employment within one year of discharge from the military, and provides all required documentation. F&P members are entitled to the benefit of military service contributions *only upon retirement from City employment*. Accordingly, members who are not eligible for reemployment, or who separate from the City before retiring, will not receive the benefit of military service contributions.

Under all three retirement plans, a member who dies while performing qualified military service will be treated as if actively employed for the purpose of awarding pension benefits, and their beneficiaries will be eligible to receive non-line-of-duty-death benefits. In computing the amount of the benefit, the member will not be entitled to benefit accruals for the time spent in military service.

Contributions to the City's *Deferred Compensation Plan* cease during military leave once an employee is no longer in pay status, although employees may resume their contributions upon return to active City employment. In addition, employees may make "catch-up" contributions for a period of up to three times the length of his or her military leave (not to exceed five years). If called to active duty for more than 179 days, employees may be eligible to withdraw contributions from their accounts without penalty. Upon return from active duty, those funds may be re-deposited in an IRA for up to 2 years.

**7. OTHER BENEFITS**

Employees on military leave will be eligible for *non-seniority* based benefits to the same extent they are provided to other employees on comparable forms of leave. For example, an employee on a military leave of absence will accrue leave (vacation, personal, and sick) as long as he or she is in pay status. Once the employee falls out of pay status, leave will not accrue, except as provided in AM-208-1 (*Leaves of Absence Without Pay, Parts I & II*).

Likewise, employees on military leave may continue group life insurance coverage through the City to the same extent as employees on other types of long-term unpaid leaves.

**8. PROMOTIONAL EXAMINATIONS**

Eligible Fire and Police Department employees who cannot attend scheduled ranked promotional examinations due to military service may arrange to take a makeup exam upon return from military leave as provided in AM-204-11-2 (*Military Leave Testing Procedures*).

## *Military Leave*

Employees returning from military leave may also schedule a makeup exam for open and unranked promotional tests. The candidate is responsible for scheduling the makeup exam through the Department of Human Resources, Test Development Division. In order to sit for the exam, candidates must provide a copy of the military orders and written confirmation from their military command that the scheduling conflict could not have been avoided.

Employees will be permitted to take a reasonable amount of time to adjust to reemployment before sitting for the exam. The exam will be a comparable, alternate form of the original test administered under controlled and monitored conditions.

### **9. REEMPLOYMENT ELIGIBILITY**

City agencies must reemploy a returning service member who is eligible for reemployment. To be eligible for reemployment, all of the following criteria must be met:

- a) *Notice* – The employee must have provided advance notice of the military service as required by Section 2 of this policy.
- b) *Length of Service* – The employee must not have exceeded the five-year cumulative limit on military leave, subject to the exceptions outlined in USERRA’s regulations at 20 C.F.R. §1002.103.
- c) *Service Discharge* – The employee may not have separated from uniformed service with a dishonorable or bad conduct discharge, by court martial, or under “other than honorable conditions.”
- d) *Timely Application* – The employee must have applied for reemployment within the time limits mandated by USERRA:
  - Military leave less than 31 days (including fitness-for-service exams) – No later than the first regularly scheduled workday that starts at least 8 hours after the person’s return home from military service.
  - Military leave between 31 and 180 days – No later than 14 calendar days after completing military service.
  - Military leave greater than 180 days – No later than 90 calendar days following the completion of military service.

***Military Leave***

- Following a Service-Connected Illness or Injury – Within the applicable timeframe listed above following recovery from the service-connected illness or injury. The recovery period may not exceed two years from the date of the completion of service, except where circumstances beyond the employee’s control make reporting within this period impossible or unreasonable.

An employee who fails to apply for reemployment in a timely manner will be subject to the City’s conduct rules, policies and practices relating to an employee’s unexcused absence from work.

In addition, an agency may in its discretion deny reemployment if there has been a change in circumstances that would make reemployment impossible or unreasonable. For example, an agency may deny reemployment if there has been an intervening layoff that would have included the employee’s position. Reemployment may also be denied if the employee’s pre-service position was for a brief, non-recurrent period with no reasonable expectation the employment relationship would continue for a significant length of time, as in the case of seasonal and contractual employment.

*Agencies must first contact the Department of Human Resources or the Law Department before denying reemployment to a returning service member.*

**10. TERMS OF REEMPLOYMENT**

Agencies must reemploy a returning employee within a reasonable period, normally within 10 working days. The position to which the employee should be restored will depend on the length of the employee’s military service, as follows:

Service of 90 Days or Less – Employees who serve in the military for 90 days or less must be restored to the same position they would have attained had their employment not been interrupted by military service. If this is a higher-level position, the agency must make reasonable efforts to train the individual for the job. If training is unsuccessful, the agency should return the employee to his or her pre-service position.

Service of Greater Than 90 Days – Employees who serve for longer than 90 days should be restored to the same position they would have attained absent military service or to a position of similar seniority, status, and pay. If an employee is not qualified for the position, the agency must make reasonable efforts to train the employee. If training is unsuccessful, the agency should either place the individual in the pre-service position or

***Military Leave***

in a position of similar seniority, status and pay to the old position.

Disabled Veterans – Agencies must reasonably accommodate an employee with a service-connected disability in the position he or she would have held absent military service. If the agency is unable to reasonably accommodate the person in this position, the agency must place him or her in a position of equivalent seniority, status and pay. If this is impossible to do, the agency may place the employee in a position of lesser status and pay, but with equal seniority.

Time spent on military leave counts as time served on the job for the purposes of calculating seniority and other benefits determined by seniority, such as annual leave accrual rates. Returning employees will be restored to the pay level they would have attained if not for the military service, which will include cost of living adjustments and longevity increases.

**11. APPRENTICESHIPS AND PROBATIONARY PERIODS**

Any employee who has not completed a probationary period or apprenticeship before taking military leave will be required to serve the remainder of the probationary period, or complete the apprenticeship, upon return to City employment. Once the employee successfully completes the apprenticeship or probationary period, his or her pay and seniority will be adjusted to reflect all pre- and post-service time worked, plus time served in the military.

**12. VERIFICATION OF SERVICE**

When an employee returns from a military leave of absence of longer than 30 days, agencies should ask the employee to provide documentation to establish that: 1) the reemployment application is timely; 2) the employee has not exceeded the five-year limit on the duration of service (subject to the exceptions provided in USERRA); and 3) the employee’s separation from service was not disqualifying.

An agency should not delay reemployment while awaiting verification, but rather should temporarily reinstate the employee until appropriate documentation is received. If documentation is not forthcoming, agencies may contact the employee’s military command for assistance.

**13. DISCHARGE OF AT-WILL EMPLOYEES**

If a service member is reemployed to an at-will position, the agency may not discharge the employee without cause for a period of time, the length of which will depend on how long the employee served in the military. An employee whose military service exceeded 180 days may not be terminated without cause for 1 year. An employee who served for less than 180 days (but

*a*

AM-204-11

*m*

## *Military Leave*

more than 30) may not be terminated, except for cause, for up to 180 days. These protections do not apply when the employee's military service lasts 30 days or less.

### **14. DISCRIMINATION PROHIBITED**

This policy prohibits discrimination against any employee or applicant for employment on the basis of their military status or military obligations. No person will be denied employment, reemployment, promotion, or any benefit of employment on the basis of that membership or service. In addition, no employee or applicant will be subjected to retaliation for having exercised his or her rights under this policy or for having participated in an investigation. Concerns about discrimination or retaliation should be immediately reported to the employing agency's Equal Opportunity Compliance (EOC) Officer or a Human Resources representative.

*a*

AM-204-11-1

*m*

## *Military Leave of Absence Form*

### Section I: Employee Information

Employee's Full Name

Date of Birth

Agency/Bureau/Division

Job Title

Mailing Address (While on leave)

Mobile Phone

City, State, ZIP Code

Personal Email Address

### Section II: Service Information

Date Ordered to Report for Duty

Length of Duty

Branch of Service

Military Orders (Attach)

Military Point of Contact

Phone

Email Address

### Section III: Designated Contact

I designate the person below to receive and open correspondence from the City of Baltimore while I am on military leave, and s/he may act on my behalf concerning matters related to my employment.

Name

Relationship

Address

Phone

### Section IV: Paid Leave

I request *paid* military leave for:

- Inactive Duty Training and Drilling (up to 15 working days per year).
- State Active Duty Service (for service performed by order of the Governor of Maryland in response to a state emergency, as provided in MD. CODE ANN., Public Safety § 13-706).

*a*

AM-204-11-1

*m* **Military Leave of Absence Form**

**Section V: Use of Accrued Leave**

Accrued leave (vacation/personal/compensatory) may be used if applied continuously at the start of your military leave.

- I elect to use all of my accrued leave.
- I elect to use my accrued leave as indicated below:
  - \_\_\_\_\_ Days    \_\_\_\_\_ Hours of Vacation Leave
  - \_\_\_\_\_ Days    \_\_\_\_\_ Hours of Personal Leave
  - \_\_\_\_\_ Days    \_\_\_\_\_ Hours of Compensatory Leave
- I elect to retain all accrued leave during my absence for use upon my return.
- I do not have any accrued leave.

**Section VI: Benefit Elections**

Check whether to continue City benefits for which you are currently enrolled. Benefits may be cancelled if you fail to make an election or if you do not make timely premium payments. Arrangements for payment must be made through the Employee Benefits Division at 410-396-5830.

|   | Continue<br>Enrolled     | Discontinue              | Not                      |
|---|--------------------------|--------------------------|--------------------------|
| Medical Coverage .....                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dental Coverage .....                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Prescription Coverage .....                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vision Coverage .....                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Optional Life Insurance .....                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Accidental Death & Dismemberment (AD&D) ..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Health Care Flexible Spending Account .....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Section VII: Employee Verification**

*I affirm that, to the best of my knowledge, this document contains no false or misleading statements. I authorize the City to contact the appropriate military command to verify the content of this form or to request additional information that may be needed to administer leave and benefits in accordance with City policy (AM-204-11).*

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

*m*      ***Military Leave Testing Procedures***

Fire and Police Department employees who expect to be on military leave during a ranked promotional examination may, before departing for leave, make arrangements to sit for a makeup exam upon their return. Arrangements should be made in advance of leave by contacting the Test Administrator, Department of Human Resources. The Test Administrator will require the candidate to provide the following:

1. A copy of the military orders with a projected return date;
2. A written statement from the employee's military command stating that military service is *required* on the date of the exam and cannot be rescheduled to avoid the conflict; and
3. A signed *Pledge Form*, which precludes the candidate from discussing the exam (or its content) with anyone who takes the exam on the original test date.

Test candidates must provide the Test Administrator with copies of any updated or changed military orders. If subsequent orders eliminate the scheduling conflict, the candidate must sit for the exam on the day it is scheduled and a makeup exam will not be administered.

Eligible candidates may take a makeup examination only upon return to City employment. Exams will *not* be administered to candidates off-site. Candidates returning from military leave will be permitted to take a reasonable amount of time to adjust to reemployment before sitting for the exam.

It is the candidate's responsibility to contact the Test Administrator to schedule the makeup exam, which will be a comparable, alternate form of the original test. The exam will be administered under controlled, monitored conditions by Department of Human Resources staff. Once the makeup exam has been taken and scored, the candidate will be placed on the current list by the ranking that would have been achieved had the candidate taken the test at the time it was originally scheduled.

***a***

**AM-204-11-3**

***m Acknowledgement of Military Leave***

DATE]

[EMPLOYEE NAME]

[ADDRESS]

[ADDRESS]

Dear [EMPLOYEE NAME]:

This confirms your request for a military leave of absence beginning [DATE]. If you have not already done so, please complete the attached *Military Leave of Absence Form (AM-204-11-1)* to indicate your preferences concerning paid leave and benefits and to designate a contact person who can receive mail (and act on your behalf) while you are away. Please complete this form as quickly as possible *before you depart for leave*.

Based on the information we have on file, you may be eligible for the following:

[INCLUDE ALL THAT APPLY]

- Paid military leave for up to fifteen days for inactive duty training. Our records show that you have \_\_\_\_ paid training day(s) left in this fiscal year.
- Paid military leave for state active duty service that is ordered by the Governor of Maryland, in accordance with MD. CODE ANN., Public Safety § 13-706.
- Unpaid military leave once your paid leave elections have been exhausted.

Eligibility for paid leave and/or benefits must be confirmed with your prompt submission of military orders.

You are also permitted (but not required) to use your own accrued personal, vacation, and compensatory leave during your absence. Sick leave may not be used. Accrued leave days will be applied consecutively at the start of the leave period.

If military service is expected to last 30 days or less, your City benefits will continue automatically unless you cancel the coverage. If you wish to continue your City benefits during a longer period of leave, you must elect to continue your coverage on the *Military Leave of Absence Form*. If you fail to make an election, your benefits will be cancelled during leave. Please note that if you decide not to participate in your City health plan during leave, coverage for your dependents will also terminate.

For your convenience, I have attached the following informational materials concerning military

***a***

**AM-204-11-3**

***m Acknowledgement of Military Leave***

leave:

*Military Leave Policy (AM-204-11)*

*Employee Checklist for Military Deployment (AM-204-11-4)*

*Continuation of Benefits Fact Sheet (AM-204-11-5)*

*Military Leave Testing Procedures (AM-204-11-2) [Optional]*

Please pay particular attention to the *Employee Checklist*, which outlines some additional steps you should consider taking before you depart.

When you have completed your military service, you should return to City-employment within the time limits mandated by USERRA, which are discussed in Section 9 of the *Military Leave Policy*. Failure to return to work in a timely manner will be considered a resignation from City employment. You are responsible for keeping us informed of any changes to your military orders while on leave, including changes to your release date.

If you have any questions regarding your military leave of absence or require assistance, please do not hesitate to contact [NAME OF HR CONTACT] at [PHONE NUMBER].

Sincerely,

[HR REPRESENTATIVE]

cc: [NAME OF SUPERVISOR]  
Employee Benefits Division  
[EMPLOYEE RETIREMENT SYSTEM]  
[FIRE & POLICE EMPLOYEES' RETIREMENT SYSTEM]  
[ELECTED OFFICIALS' RETIREMENT SYSTEM]

m **Employee Checklist for Military Deployment**

Keep your agency informed – If you are a member of a Guard or Reserve unit, give your supervisor a copy of your annual training schedule as soon as it becomes available. Providing maximum lead time will help your agency accommodate your military activities.

- Give plenty of notice – As soon as you have notice of a deployment or other military service obligation, notify your supervisor and provide a copy of your orders. Defense Department regulations strongly recommend that service members provide *at least 30 days advance written notice* whenever it is feasible to do so. The failure to provide advance notice may jeopardize your eligibility for reemployment.
- Complete a Military Leave of Absence Form – Before you depart for leave, complete a *Military Leave of Absence Form (AM-201-11-1)* and return it to your HR department. The information you provide on the form will help us stay in touch with you while you are on leave. It will also help us administer paid leave and other benefits. If your military obligation is expected to last more than 30 days and you wish to continue your City benefits, *you must make an election on this form*. If you fail to do so, your benefits will be cancelled until you return to City employment.
- Notify your retirement plan – Let your retirement plan know that you will be taking a leave of absence for military service. Representatives of the plan will advise you on what you need to do to ensure that time spent in military service is counted for pension vesting and accrual purposes. In the case of Fire & Police Employees’ Retirement System (F&P) members, the plan must be notified so that your mandatory contributions to the plan can be suspended.
- Update beneficiary information – Before you leave for active duty military service, contact your retirement and life insurance plans to update your beneficiary designations.

|  |                         |
|--|-------------------------|
| Employee Retirement System . . . . .                   | 443-984-3200            |
| Fire and Police Employees’ Retirement System . . . . . | 410-497-7929 (Option 3) |
| Elected Officials’ Retirement System . . . . .         | 443-984-3200            |
| Employee Benefits Division . . . . .                   | 410-396-5830            |
| Deferred Compensation . . . . .                        | 877-223-2748            |

- Payroll Deductions – The City will continue to process payroll deductions – including wage garnishments, child support payments, and deductions taken for voluntary insurances and the Municipal Employees Credit Union (MECU) – for as long as you remain in pay status and have sufficient funds cover the payments. If you fall out of pay status during military leave,

*a*

AM-204-11-4

*m*      ***Employee Checklist for Military Deployment***

the City will suspend any deductions. If some or all of your leave will be unpaid, you should make other arrangements payment before you go.

- Fire and Police Promotional Examinations – Fire and Police personnel who will not be available to sit for a ranked promotional exam due to military service should review the *Military Leave Testing Procedures (AM-201-11-2)* and contact the Test Administrator. You will be allowed to sit for a makeup exam when you return to City employment, provided you complete the necessary paperwork. The Test Administrator can be reached at 410-396-3857.
  
- Keep contact information up-to-date – Keep us advised of your correct permanent and mailing address(es) during leave. Changes in your permanent address may affect your eligibility for certain health plans. In addition, we need a correct mailing address to keep you (or your designated contact) informed of matters related to your employment, including benefits.
  
- Report extensions of orders – Notify your supervisor of any changes to your military orders, including extensions. It is your responsibility to keep us informed of any changes to your expected release date.

***m Continuation of Benefits While on Military Leave***

If you are taking leave for military service, you should understand what happens to your benefits while you are away. Take a minute to read the information below to understand your benefit options. If you have further questions, you may contact your HR representative for assistance or refer to the appropriate benefit administrator. Please note that all benefit offerings are subject to change from time to time, and the City reserves the right to make changes with or without notice.

**Health Insurance**

While on military leave, you may continue your City health benefits (including medical, dental, vision, and prescription drug coverage) at the same elections you have now. The City will continue to contribute toward the cost of your coverage for as long as you remain in pay status and for shorter periods of military service (30 days or less).

If your service obligation is expected to last more than 30 days, you are eligible for coverage under TRICARE (<http://www.tricare.mil/>). You may also continue participation in your City health plan at full cost (without the City contributing toward the premiums) for a maximum of 24 months under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Your USERRA right to continued health coverage is very similar to your right to 18 months of continued coverage under COBRA and will run concurrently with your COBRA rights.

If you decide to cancel your City health benefits during leave, you will be able to reenroll in the same plans you had before when you return to work – with no waiting periods or pre-existing condition exclusions, except for service-connected conditions under certain plans.

**Flexible Spending Accounts**

You have the option of either suspending or continuing your Healthcare Flexible Spending Account (Healthcare FSA) contributions during military leave. If you decide to suspend contributions, your account will be reinstated when you return to work, provided you return within the same plan year. If you return during a different plan year, you will have 60 days from the date of your return to reenroll. You will have until the end of the plan year run-out period to submit requests for reimbursement. Claims incurred after the date you terminate your Healthcare FSA will not be eligible for reimbursement.

If you decide to continue your Healthcare FSA, contributions to your account will be taken via normal payroll deduction for as long as you remain in pay status. If you enter non-pay status, you will have to make after-tax contributions to your Healthcare FSA in order to remain enrolled. The amount of your contribution may be changed only if you experience a Qualified Life Event. Direct billing for after-tax contributions must be arranged through the Employee Benefits Division.

*m*     ***Continuation of Benefits While on Military Leave***

Qualified reservists who are called to active duty for 180 days or more have the additional option of requesting a taxable distribution of any unused funds. You might consider doing this, for example, if you do not think you will have enough eligible expenses to deplete the balance in your account. Rather than forfeit those funds, you can have the balance returned to you.

Employees on extended, unpaid leaves (including unpaid military leave) may not continue participation in a Dependent Care FSA, but may withdraw their account balance as taxable income.

**Life Insurance and AD&D**

You may elect to continue your group life insurance coverage during military leave. Under the Optional Life plan, benefits are payable in the event of death resulting from military service. The City's Accidental Death and Dismemberment (AD&D) plan, however, will not pay for death or loss resulting from war or acts of war or from a substantial armed conflict.

If you decide to discontinue your enrollment in one or both of these plans, you will be able to re-enroll for the amount of coverage you had before as long, as you do so within 60 days of your return to active employment. Evidence of insurability will not be required if you apply within this timeframe.

**Pension Plans**

You will receive service credit for vesting and eligibility purposes for periods of qualified military leave. For members of the Employee Retirement System (ERS) and Elected Officials' Retirement System (EOS), credited service will continue during military leave, provided you qualify for reemployment, return to active City employment within one year of discharge from the military, and provide all required documentation.

If you are a member of the Fire & Police Employees' Retirement System (F&P), you will receive service credit for military leave, with the City making all mandatory employee contributions to the plan during your leave ("military service contributions"), provided you qualify for reemployment, return to work within one year of discharge, and provide all required documentation. Military service contributions are awarded *only* upon retirement from City employment. Employees who separate for other reasons will not receive the benefit of military service contributions.

Under all three plans, a member who dies while performing military service will be treated as if actively employed for the purpose of awarding death benefits. Beneficiaries will be eligible to

*m*     ***Continuation of Benefits While on Military Leave***

receive non-line-of-duty benefits, excluding accruals for time spent in military service.

**Deferred Compensation**

Contributions to the City’s Deferred Compensation Plan cease during military leave once you are no longer in pay status, although you will be able to resume contributions when you return to work. In addition, you will be permitted to make “catch-up” contributions for a period of up to three times the length of your military leave (not to exceed five years).

If you have been called to active duty for more than 179 days, you are eligible to withdraw your contributions from your account without the 10% early withdrawal tax. Upon your return from active duty, you may redeposit any funds that you withdrew, to an IRA, for up to 2 years from the end of active service.

**Before You Go...**

If you plan to continue your City health benefits and/or life insurance during longer periods of military leave (more than 30 days), you must indicate your benefit elections on a *Military Leave of Absence Form (AM-201-11-1)* and promptly return the form to your HR representative. If you fail to make an election, *your benefits will be terminated.*

Benefit coverage will continue for as long as you make timely premium payments either through payroll deduction (for periods of paid leave) or direct billing (during unpaid leaves). Questions about health and life insurance benefits should be directed to the Employee Benefits Division at 410-396-5830.

Before you depart, you should also notify your retirement plan and update your beneficiary designations. A plan representative will also advise you on the steps you need to take to ensure that the time you spend performing military service is counted for vesting and accrual purposes.

- Employee Retirement System.....443-984-3200
- Fire and Police Employees’ Retirement System.....410-497-7929 (Option 3)
- Elected Officials’ Retirement System.....443-984-3200

***Agency HR Checklist***

- Acknowledge the Leave Request – Within 24 hours of receiving notice that an employee will be taking military leave, send the employee an *Acknowledgement of Military Leave (AM-204-11-3)* and attach copies of the following:

*Military Leave Policy (AM-204-11)*

*Military Leave of Absence Form (AM-204-11-1)*

*Employee Checklist for Military Deployment (AM-204-11-4)*

*Continuation of Benefits While on Military Leave Fact Sheet (AM-204-11-5)*

*Military Leave Testing Procedures (AM-204-11-2) [Optional]*

These documents, and fillable forms and letters, are available electronically in the “HR Tools” section of the Department of Human Resources’ intranet site.

- Follow-up with the Employee – Encourage employees to return the *Military Leave of Absence Form* as soon as possible, preferably before they depart for leave. Offer the employee reminders as necessary. In the case of a short-notice deployment, work with the employee (or a designated contact or proxy) to gather the information requested on the form.
- Determine Eligibility for Paid Leave and Benefits – Review the employee’s military orders to verify the employee’s eligibility for paid leave and City-subsidized health benefits.
  - Inactive Duty Training. Confirm that the leave will be used for inactive duty training and drilling. Use E-Time to determine how many paid training days the employee already used during the fiscal year and authorize use of the remaining balance (up to 15 days).
  - State Active Duty Service. Paid leave for “state active duty service” should be authorized only when a member of the Maryland militia (*e.g.* the Maryland National Guard, the Maryland Air National Guard, the Inactive National Guard, or the Maryland Defense force) is ordered to active duty service *by the Governor of Maryland*. Such orders are relatively rare and typically stem from a natural disaster or other public crisis within the state. An order issued “with the consent of the Governor” is not a state active duty order.

If the employee’s eligibility for paid leave and/or benefits it is not clear from the face of the orders, the agency should contact the employee’s military command to request clarification. Ultimately, it is the employee’s responsibility to ensure the agency receives adequate documentation to verify eligibility.

***Agency HR Checklist***

*All paid leave requests must be approved by the Department of Human Resources.*

- Notify the Employee's Retirement Plan – Send a copy of the employee's *Acknowledgment of Military Leave* letter to the employee's retirement plan (e.g. Employee Retirement System (ERS), Fire and Police Employees' Retirement System (F&P), or the Elected Officials' Retirement System (EOS)). Notification is necessary to ensure that time spent in the military is counted for pension vesting and accrual purposes. In the case of Fire & Police Employees' Retirement System (F&P) members, the employee's mandatory contributions to the plan must be suspended during leave, as is required under the plan.
- Notify the Employee Benefits Division – As soon as the employee returns the *Military Leave of Absence Form*, forward a copy to the Employee Benefits Division, Department of Human Resources so that the employee's benefit elections can be processed.
- Provide an HR Contact – The agency's HR department should assign the employee an HR point-of-contact so that the employee and/or a family member can call with questions during the leave.
- Secure City Property and Resources – Before an employee departs for a longer period of military service (such as an active duty deployment), collect all City property in the employee's possession, including: vehicles, keys, access cards, credit cards, pagers, cell phones, radios, laptops, cameras, parking passes, fuel cards, City Driver Permits, uniforms, tools, equipment, and City files and records.

Retrieve any City funds held by the employee, such as petty cash, and change security codes as necessary. Agencies should also disable the employee's access to City e-mail accounts by logging on to <https://cob/moit/acct/>.

- Processing Leave in HRIS and E-Time – As soon as the employee departs for military leave, change the department locator to "MIL." Timekeepers will track the employee in E-Time using the following pay codes:

- Military – Accrued Vacation
- Military – Accrued Personal
- Military – Accrued Comp Time
- Military – Paid Training
- Military – Paid State Active Duty

***Agency HR Checklist*****Military – Unpaid Leave**

The first three codes should be used while the employee uses accrued vacation, personal or compensatory leave. The “Military – Paid Training” code should be used when an employee is on military leave for training. The “Military – Paid State Active Duty” code should be used on the relatively rare occasion when an employee has been called to active duty service by the Governor of Maryland.

When all paid and/or accrued leave elections have been exhausted, timekeepers should use the “Military – Unpaid Leave” code.

**UPON RETURN FROM MILITARY LEAVE**

- Verify Military Service** – When an employee returns from a military leave of absence of longer than 30 days, ask the employee to provide documentation to establish that: 1) the reemployment application is timely; 2) the employee has not exceeded the five-year limit on the duration of service; and 3) the employee’s separation from service was not disqualifying.

*Do not delay reemployment while awaiting verification.* Temporarily reinstate the employee until documentation is received. If documentation is not forthcoming, contact the employee’s military unit for assistance.

- Determine Eligibility for Reemployment** – The employee must be eligible for reemployment under Section 9 of the *Military Leave Policy*, which requires the following:
  - The employee gave advance notice of the need to take military leave, absent extenuating circumstances;
  - The employee’s cumulative years of military service does not exceed five years, subject to the exceptions outlined in the USERRA regulations at 20 C.F.R. §1002.103;
  - The employee did not separate from the military with a dishonorable or bad conduct discharge, by court martial, or under “other than honorable conditions”; and
  - The employee reported back to work or applied for reemployment within the appropriate time constraints:

*a*

AM-204-11-6

*m*

## *Agency HR Checklist*

- Military leave less than 30 days (including fitness-for-service exams) – No later than the first regularly scheduled workday that starts at least 8 hours after the person’s return home from military service.
  - Military leave between 31 and 180 days – No later than 14 calendar days after completing military service.
  - Military leave greater than 180 days – No later than 90 calendar days following the completion of military service.
  - Following a Service-Connected Injury – No later than two years following completion of service.
- Notification of Reemployment – Once the employee has been restored to City employment, complete a *Reemployment Notification Form (AM-201-11-6)* and forward it to:
- Employee Benefits Division
  - Central Payroll Division
  - The employee’s retirement plan (ERS/F&P/EOS)

*a*

AM-204-11-7

*m*      **Reemployment Notification Form**

**Section I: Employee Information**

\_\_\_\_\_  
Employee's Full Name

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Agency/Bureau/Division

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
City, State, ZIP Code

**Section II: Service Information**

\_\_\_\_\_  
Date Military Service Began

\_\_\_\_\_  
Return to Work Date

\_\_\_\_\_  
Branch of Service

Discharge Papers (Attach)

**Section III: Notification**

A copy of this form will be forwarded to the following:

Employee Benefits Division  
System (F&P)

Fire & Police Employees' Retirement

Central Payroll  
(EOS)

Elected Officials' Retirement System

Employee Retirement System (ERS)

\_\_\_\_\_  
Agency Human Resources Director

\_\_\_\_\_  
Date