

## Section VII: Leaves of Absences

## Village of Oak Park Personnel Manual

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### **LEAVES OF ABSENCES:**

There may be times when extenuating circumstances make it necessary for employees to be absent from work. Employees must contact their supervisor as far in advance as possible on any of the following bases, so that relief arrangements can be made. When an employee takes a leave of absence in accordance with the policies defined in this section and enters into a no-pay status, all fringe benefits, including the accrual of paid time-off, shall be suspended until such time that the employee returns to work. Employees may arrange to continue life insurance and hospitalization coverage through the Village at their expense. Vacation is not earned during a leave of absence unless otherwise required by law.

#### **A. Personal:**

When it becomes necessary for employees to be absent from work to attend to personal business which cannot be handled outside of working hours, employees should discuss in advance any such need with their supervisor to obtain approval. A request for a personal leave in excess of one day should be submitted one month in advance whenever possible. Accrued vacation time may be used for such leave. Except for the use of accrued vacation, employees shall not be paid for absences due to personal business reasons.

#### **B. Jury Duty:**

An employee shall receive full pay for time lost when serving on a jury. Any fees received by the employee for jury service must be turned over to the Village. Employees should inform their supervisors when the initial notice of impending service is received. Employees should check with their supervisor promptly upon their release from the courts.

#### **C. Bereavement Pay:**

In the event of a death in the employee's immediate family, the Department Head may grant a maximum of three (3) consecutive calendar days off with pay. "Immediate family" shall

mean the spouse, domestic partner, children, mother, father, sisters, and brothers of employees or their spouse, or domestic partner whether natural, step, in-law, or grand.

In addition, a maximum leave of three consecutive calendar days may be granted in the case of a death of a person who is a household member but who is not defined as "immediate family."

a. Family Bereavement Leave Pay (FBLA):

Employees are entitled to a maximum of 2 weeks (10 workdays) of unpaid leave time in the event of:

- the death of a "covered family member";
- a stillbirth;
- a miscarriage;
- an unsuccessful reproductive procedure;
- a failed adoption match or an adoption that is not finalized because it is contested;
- a failed surrogacy agreement; or
- a diagnosis that negatively impacts pregnancy or fertility.

A "covered family member" is an employee's spouse, domestic partner, children, mother, father, sisters, and brothers of employees or their spouse, or domestic partner whether natural, step, in-law, or grand. Employees are entitled to a maximum of 6 weeks of leave if they experience more than one event during a 12-month period.

Employees may use FBLA leave time to:

1. grieve;
2. attend the funeral or alternative to a funeral of a covered family member; or
3. make arrangements necessitated by the death of the covered family member.

FBLA leave time must be completed within 60 days after the date the employee receives notice of the event. Employees must give at least 48 hours' notice before taking FBLA leave, unless not reasonable or practicable. The FBLA request form may be found on the Village intranet.

Reasonable documentation must be provided for FBLA leave. Documentation may include a death certificate or published obituary.

To be eligible for FBLA leave an employee must have worked at least 1,250 hours of service during the prior 12-month period. FBLA leave may not be taken in addition to unpaid leave permitted under the Family and Medical Leave Act (FMLA), 29 U.S.C. 2601 *et seq.*, and may not exceed unpaid leave time allowed under the FMLA (Appendix X).

D. Military:

A. Overview

The Village provides employment related protections and benefits to employees who are called to perform uniformed military 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-up care by the Department of Defense, 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 Service Member Employment and Reemployment Rights Act ("ISERRA"), 330 ILCS 61, *et seq.*

B. Purpose and Intent

The purpose and intent of this Section is to provide procedures that are to be followed when notifying the Village of a Military Service Leave of Absence or to receive employment-related protections and benefits when fulfilling military duties, subject to applicable law. This Section is not intended to supersede or limit the Village from enforcing provisions in any applicable collective bargaining agreement. Should any provision of this Section conflict with another provision contained in this Manual, the provision(s) of this Section shall take precedence.

C. Nondiscrimination

The Village 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. The Village 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.

D. Employee and Management Responsibilities

The Village's Human Resources Department will monitor the Village's practices to ensure compliance with and to answer questions concerning the information presented in this Section. If a department manager/supervisor acquires knowledge that an employee's absence may be for a Military Service Leave-qualifying reason, the department manager/supervisor should immediately notify Human Resources.

E. Definitions. The following words and phrases, whenever used in this Section, are hereby defined as follows:

MILITARY DISCHARGE STATUS: 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: 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 Village. Such pay applies to days on which the employee would have otherwise been scheduled or required to work as a Village employee in the absence of military service.

F. Policies and Procedures; Military Service Leave

The Village provides eligible employees taking part in a variety of military duties with employment-related protections and benefits under this Section. 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 Village employees are eligible for Military Service Leave.

2. Basis

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

a. Basic training;

b. Special or advanced training, whether or not within the State of Illinois 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 or Reserves.

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 (5) 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 (5)-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;

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; or

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.

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 Village employment and 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 Village will continue to pay an employee's regular compensation, without any offset of military pay.

ii. *Pay Differential for Non-Annual Training.* During leaves for basic training, special or advanced training of up to 60 days, and/or 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 Village employee. Pay differential will be calculated by subtracting the amount equal to an employee's military active base pay from the employee's regular Village compensation. An employee's military base pay excludes any additional pay received while assigned to a combat zone, hardship duty pay, or 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 Village 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 Village employment. However, they will not receive Village 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 the employee's regular compensation as a Village employee.

e. *Communication.* Employees on Military Service Leave are expected to be reasonably responsive to the Human Resources Department, their supervisor, and/or department head during the applicable leave period.

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 of the Village as follows:

i. For any Military Service Leave periods of thirty (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 thirty-one (31) days or more for inactive duty military duty service, an employee must elect to continue health benefits coverage with the Village 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: (i) 24 months from the commencement of military leave; or (ii) 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 Human Resources Department 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 Village employment. Employees may use accrued paid time off during the leave in accordance with this Manual or an applicable collective bargaining agreement.

h. *Holidays.* Employees on Military Service Leave will receive holiday pay in the same manner as afforded to Village employees in the normal course of employment with the Village.

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 Human Resources Department with notice of the need for leave two (2) weeks or fourteen (14) days in advance, or as far in advance as is reasonable under the circumstances.

b. Notification. The employee should notify the Human Resources Department of any Military Service Leave.

c. Supporting Documentation. To ensure timely processing and payment of any compensation, the employee shall provide the Human Resources Department with the following documentation, no less than two (2) weeks or fourteen (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

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 Village 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 request will be processed by the Human Resources Department. Notwithstanding the above, the Village 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 after Military Service Leave)

a. An employee who 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 the Military Service Leave was taken. However, the Village will make reasonable efforts to train returning employees on new equipment, systems, 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 Village 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 Service Leave will be eligible for health benefits coverage.

iii. Pension. For information about service credit and/or pension adjustments during or after a Military Service Leave, please contact the applicable pension fund.

iv. Protections from Discharge. Certain employees on 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.

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

- i. The Village 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 Village, 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 Village, to perform the essential functions of that position.

c. *Exceptions.* The Village 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 for Reinstatement*, below);
- 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 Village; or

- iv. The Village's circumstances have 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 set forth herein may subject an individual to the provisions of this Manual or applicable collective bargaining agreement regarding an 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 fewer 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 Fourteen (14) Days.* An employee returning from 31-180 days of Military Service Leave must apply for re-employment no later than fourteen (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 thirty (30) days shall submit documentation establishing the following, upon request by the Human Resources Department:

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 employee's 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 supporting documentation.
- ii. That the five (5) year cumulative service limitation was not exceeded; and
  - 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 Village may conditionally reemploy the returning employee pending submission of the supporting documentation. The Village of Oak Park may contact the military to verify and/or request information regarding proof of military service. If, after re-employment, the Village receives documentation showing that application for re-employment requirements are not satisfied, the Village may discharge the employee, effective as of the date the documents are received.

D. Military:

~~Any employee, other than short term employees who leaves active employment for military duty will be granted a Leave of Absence without pay except as provided below. Upon completion of military duty and subject to the conditions set forth below, employees who are still qualified to perform the duties of the position of employment which they left will be immediately reinstated in the employee's former job classification, with the same increases as earned by employees who are in like positions, unless circumstances of the Village have so changed as to make it impossible or unreasonable to do so. No vacancy shall be held open for more than the prescribed time limits set forth below. If employees do not accept reinstatement to their former positions at the conclusion of their leave of absence within the appropriate prescribed time limit set forth below, the right to future employment with the Village shall be forfeited. Reinstatement of employment will be provided if the following conditions are met:~~

~~1. Application for re-employment is made within ninety days after honorable discharge, satisfactory completion of active service, receipt of certification of rejection for the military, or hospitalization continuing after discharge for a period of not more than one (1) year.~~

~~2. Application for re-employment is made within thirty one (31) days after completion of initial active duty training by Reservist or National Guard member.~~

~~3. Members of a military reserve unit of the United States or State of Illinois must report back to the Village for their first regularly scheduled work period after release from performing training duty or rejection before performing any active duty and after the passage of the time necessary for travel and any other factors beyond their control.~~

~~4. Employee's voluntary period of enlistment or recall to active duty does not exceed four (4) years, plus a one (1) year additional voluntary extension of active duty if this is at the request and for the convenience of the Government. This time period is exclusive of time spent on initial active duty training.~~

~~Any employee who is a member of a military reserve unit of the United States or State of Illinois and who attends special training assignments shall be given leave without pay. This special leave shall in no way affect vacation, sick leave or other emergency leave benefits of the employee's job status. The Village may request a certification stating the length of encampment.~~

~~Employees who are ordered to active duty will continue to be paid the differences between their Village salaries and their military pay, minus standard deductions, while they remain on active duty, vacation leave, sick leave and other benefits will not be adversely affected.~~

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