

## CITY OF CHICAGO MILITARY LEAVE POLICY

Effective Date: October 1, 2024

### I. OVERVIEW

The City of Chicago (“City”) honors and respects its employees who have served, are serving, or will serve in the armed forces, and appreciates the sacrifices required to balance civilian and military careers. Accordingly, and consistent with federal, state, and local laws, the City provides service member employees with leaves of absence to complete their military service obligations. This policy explains the steps City employees should take when leaving for and returning from a military leave of absence, as well as the City’s policies regarding employee benefits and compensation during such leaves.

This policy is intended to be consistent with the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), 38 U.S.C. § 4301 *et seq.* and the Illinois Service Member Employment and Reemployment Rights Act (“ISERRA”), 330 ILCS 61/1-1 *et seq.*, which provide the minimum level of employment benefits for service member employees. To the extent that this policy, or a collective bargaining agreement, departmental policy, or departmental practice provides lesser rights or benefits than those provided under USERRA and/or ISERRA, USERRA and/or ISERRA shall govern.

### II. DEFINITIONS

- A. **Active Duty** – Any full-time military service regardless of length or voluntariness including, but not limited to, annual training, full-time National Guard duty, and State active duty. “Active duty” does not include any form of inactive duty service such as drill duty or muster duty. “Active duty,” unless provided otherwise, includes active duty without pay.
- B. **Active Service** – All forms of active and inactive duty regardless of voluntariness including, but not limited to, annual training, active duty for training, initial active duty training, overseas training duty, full-time National Guard duty, active duty other than training, State active duty, mobilizations, muster duty, and any other service falling under the definition of “active service” as provided in ISERRA, 330 ILCS 61/1-10. “Active service,” unless provided otherwise, includes active service without pay.
- C. **Annual Training** – Any active duty performed under Section 10147 or 12301(b) of Title 10 of the United States Code or under Section 502(a) of Title 32 of the United States Code.
- D. **Concurrent Compensation** – Receipt of a City employee’s full compensation as a City employee plus full compensation as a military service member.
- E. **Differential Compensation** – Pay due when a City employee’s daily rate of compensation for military service is less than their daily rate of compensation as a

City employee. Any differential compensation due to a City employee will be calculated in accordance with ISERRA.

**F. Military Service** – Military service includes:

1. Service in the Armed Forces of the United States, the National Guard of any state or territory regardless of status, and the State Guard as defined in the State Guard Act, 20 ILCS 1815/1-1 *et seq.* “Military service,” whether active or reserve, includes service under the authority of Titles 10, 14, or 32, of the United States Code or State active duty;
2. Service in a federally recognized auxiliary of the United States Armed Forces (e.g., Civil Air Patrol, United States Coast Guard Auxiliary) when performing official duties in support of military or civilian authorities as a result of an emergency;
3. A period for which a City employee is absent from their City position for the purpose of medical or dental treatment for a condition, illness, or injury sustained or aggravated during a period of active service in which treatment is paid for by the United States Department of Defense Military Health System;
4. Service in the commissioned corps of the United States Public Health Service;
5. System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and
6. Any other category of persons designated by the President in time of war or national emergency.

**G. Notice** – Any written or verbal notification of an obligation or intention to perform military service provided to the City by the City employee who will perform such service, or by an appropriate officer in the uniformed service in which the City employee’s service is to be performed.

**H. Temporary Employment Position** – A City position that is for a brief period of time and for which there is no reasonable expectation that the position will repeat, reoccur, continue indefinitely, and/or continue for a significant length of time.

### **III. TAKING A MILITARY LEAVE OF ABSENCE**

**A. Eligibility for a Military Leave of Absence**

Any City employee whose absence from their City position is due to military service is entitled to a military leave of absence, provided that:

1. The employee provides reasonable advance notice of their military service obligation, unless providing advance notice is prevented by military necessity or is otherwise impossible or unreasonable under the circumstances;

2. The cumulative length of the military service period for which the employee is taking leave, plus all previous periods of military leave taken by the employee during their City employment, does not exceed 5 years, subject to the exceptions found in USERRA, 38 U.S.C. § 4312;
3. The employee is not employed in a temporary employment position; and
4. The employee returns to, or submits an application to return to, their City position in accordance with Section IV, below.

**B. Providing Reasonable Advance Notice of Military Service**

A City employee intending to take a military leave of absence must provide the City with reasonable advance notice of their upcoming military service. Although advance notice can be provided orally or in writing, employees are strongly encouraged to complete the following steps to ensure timely and accurate processing of any military leave compensation and/or health benefits they may be entitled to during their leave:

1. Complete the Military Leave Employee Information Worksheet and Request for Leave of Absence form attached to this policy; and
2. Submit the completed Military Leave Employee Information Worksheet, the Request for Leave of Absence form, and any supporting documents to the employee's departmental human resources liaison.

In lieu of (1) and (2) above, an appropriate officer in the uniformed service in which the City employee's service is to be performed may also provide reasonable advance notice for the City employee orally, in writing, or by completing the Military Leave Employee Information Worksheet and Request for Leave of Absence form.

If providing reasonable advance notice is prevented by military necessity or is otherwise impossible or unreasonable under the circumstances, the City employee should notify their departmental human resources liaison as described above as soon as providing notification becomes possible.

**C. Supporting Documentation for Military Leave of Absence Notification**

City employees are not required to submit any specific documentation when providing the City with notification of upcoming military service; however, providing some or all of the following documentation, along with a completed Military Leave Employee Information Worksheet and Request for Leave of Absence form, will expedite processing of the employee's military leave of absence and any potential military leave compensation and/or health benefits the employee may be entitled to receive during their leave:

1. A copy of the City employee's official military duty orders;
  - a. The orders should clearly state the type of military service to be completed (e.g., "annual training" under 10 U.S.C. § 12301(b); drill duty, etc.). If the type of

service is not clearly stated in the employee's official military duty orders, the City employee should provide any other available documentation describing the type of military service.

2. Documentation, such as a recent military leave and earnings statement, which clearly states the City employee's current military rank and years of military service; and
3. Documentation supporting any time, in addition to the military service period itself, needed to travel to and/or from the location of an employee's military service.

#### **D. Health Benefits Election Documentation**

As discussed in Section V.B below, employees may also elect to continue their City health benefits during a period of military leave. Employees can submit their election decision by completing a Military Leave Employee Information Worksheet and submitting the completed worksheet to their departmental human resources liaison, who will forward the worksheet to the Chicago Benefits Office. Employees electing to continue receipt of health benefits coverage shall in such election also specify whether they would like required contributions towards said health benefits to be deducted from any military leave compensation they may be entitled to from the City, or billed to the employee directly.<sup>1</sup>

A failure to timely submit an election decision will in no way affect the employee's entitlement to a military leave of absence, but will result in a default continuation of whatever health benefits the employee has previously elected to receive (or not receive) from the City in the regular course of their City employment. For example, if the employee receives City health benefits, he or she will continue said benefits; if the employee receives health benefits through a spouse's employer and has elected not to receive City health benefits, he or she will continue to not receive City health benefits.

The City employee can cure a failure to timely submit a health benefits election, with health benefits retroactively reinstated, by submitting an election decision and by paying all unpaid contribution amounts to the City within 30 calendar days of the start of a military leave of absence. An employee may also elect to discontinue health benefits within 30 calendar days of the start of a military leave of absence; however, any contributions towards continued health benefits that have already been paid to the City will not be reimbursed. Employees should call the Chicago Benefits Service Center at 1-877-299-5111 to cure a failure to timely submit a health benefits election or to discontinue health benefits after the start of a military leave of absence.

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<sup>1</sup> In the event that an employee is entitled to military leave compensation, but the amount of compensation is less than the contribution amount required to continue health benefits during the leave period, the City will automatically begin billing the employee directly.

#### **IV. RETURNING FROM A MILITARY LEAVE OF ABSENCE**

##### **A. When a Service Member Employee Must Return to City Position**

The procedures a City employee must follow when returning to City employment after their military service period has ended will depend on the length of the military service period completed.

**Military Service Less Than 31 Days** – At the conclusion of the military service period, plus any time required to travel back to Chicago, plus an additional eight hours of rest time, City employees shall resume work by reporting for duty on their first full regularly scheduled City workday on the first full calendar day following the completion of military service.

*Example: Employee A works 9-to-5, Monday through Friday, for the City. If Employee A concludes military service at 10:00 p.m. on a Monday, travels four hours to return to Chicago, and then rests for eight hours, she must report for City work on Wednesday, her first full, regularly-scheduled City work day following her military service.*

**Military Service of 31-180 Days** – City employees shall notify their departmental human resources liaison verbally or in writing of their intent to return to City employment no later than 14 days after completion of their military service. If such notification is impossible or unreasonable, notification shall be submitted no later than the next calendar day after notification becomes possible.

**Military Service of 181 or More Days** – City employees shall notify their departmental human resources liaison verbally or in writing of their intent to return to City employment no later than 90 days after completion of their military service.

**Injured or Sick Employees** – a City employee who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of military service shall have up to two years to recover from said illness or injury before the start of the time for the employee to report to or apply for City reemployment in accordance with the above timelines.

Upon returning to City employment, City employees will be reemployed in accordance with USERRA and ISERRA.

Employees who have elected to discontinue health benefits during their military leave will have 30 calendar days from the date of their return to work to comply with requirements to reinstate health benefits. Employees should call the Chicago Benefits Service Center at 1-877-299-5111 to reinstate coverage. If the employee timely complies, those benefits will be reinstated effective as of the return to work date.

## **B. Return to City Employment Documentation**

To expedite processing of reemployment and any compensation a City employee may be due for their period of military leave, City employees should provide documentation of their completed military service, their current military rank and years of service, and any military compensation received. Such documentation may include copies of the City employee's:

- military leave and earnings statement;
- endorsed military orders;
- United States Department of Defense form 214;
- service completion certificate;
- letter from a commanding officer; and/or
- military payroll documentation showing the employee's period of service.

Whenever possible, returning City employees should submit the above documentation to their departmental human resources liaison within 3 business days of their return City employment. If City employees are unable to submit these documents within this timeframe, they should submit the documents as soon as possible.

## **V. TERMS OF LEAVE AND BENEFITS DURING LEAVE**

### **A. Seniority and Non-Seniority-Based Benefits**

During a military leave of absence, City employees retain their seniority and any rights or benefits based on that seniority, and will continue to accrue seniority and seniority-based benefits during their leave.

Additionally, City employees on a military leave of absence are entitled to any non-seniority-based rights and benefits afforded to employees of similar seniority, status, and pay who take a non-military furlough or leave of absence.

City employees may elect to use accrued vacation, compensatory, furlough, or other forms of paid time off during their military leave of absence; however, the City cannot require the employee to use such paid time off, nor can the City require the employee to obtain work shift substitutions or to accommodate their City work schedule in order to take their military leave of absence.

### **B. Health Benefits**

City employees may elect to continue their City health benefits during a military leave of absence, subject to the following:

1. A City employee may elect to continue their City health benefits in accordance with III.D., above.

2. If the City employee's military leave of absence is for less than 31 days, he or she will continue to pay only their regular employee contribution towards healthcare costs, unless the City employee has waived coverage pursuant to III.D. above.
3. If the City employee's military leave of absence is for 31 or more days, he or she may be required to pay the full healthcare premium cost (i.e., the "employee" and "employer" shares), unless they are completing active duty, in which case the employee will continue to pay only their regular employee contribution toward healthcare costs.
4. The maximum period of military leave health benefit coverage continuation shall be for the 24-month period beginning on the date on which the City employee's military leave of absence begins or the day after the date on which the City employee fails to apply for or return to their City position of employment (as set forth in Section IV.A. above), whichever is less.
5. Employees who have elected to continue health benefits and who exceed the 24-month limit on benefit continuation during a given period of military leave may, to the extent required under federal law, elect to receive coverage under PHSA/COBRA. Employees electing to receive PHSA/COBRA coverage may be required to pay up to 102% of the full health benefit premium cost. Timely election and payment is required.

#### **C. Performance Evaluations During Military Leaves of Absence**

A City employee's performance may be evaluated during a period of military leave. Any performance evaluation of a City employee that includes in its evaluation timeframe one or more military leaves of absence shall, at a minimum:

1. Credit the military leave of absence with the average of the performance evaluation ratings received by the employee for the 3 years immediately before their military leave of absence; and
2. The average rating shall not be less than the rating that the employee received for the last rated time period immediately prior to their absence on military leave.

### **VI. COMPENSATION DURING PERIODS OF MILITARY LEAVE**

The City of Chicago will compensate full-time City employees for periods of military leave in accordance with federal, state, and local military leave laws. In general, ISERRA provides that City employees may receive either "concurrent compensation" or "differential compensation" during periods of military leave, depending on the type of military service completed during the leave period.

#### **A. Concurrent Compensation**

During periods of military leave for annual training, City employees will continue to receive their full City compensation for up to 30 days per calendar year. Military leave for purposes of receiving concurrent compensation may be completed all at once or intermittently in smaller segments.

## **B. Differential Compensation**

Differential compensation is the pay due when the City employee's daily rate of compensation for military service is less than their daily rate of compensation as a City employee. Differential compensation will be paid during leave for periods of active service in accordance with ISERRA.

## **VII. STATEMENT OF NON-DISCRIMINATION/REFERENCE TO EEO POLICY**

The City, through its Diversity and Equal Employment Opportunity Policy ("EEO Policy"), prohibits harassment and discrimination based on an employee's military service and/or unfavorable discharge from military service, among other protected categories. The EEO Policy further prohibits retaliation against any employee who in good faith asserts their rights by opposing or complaining about discriminatory practices or assisting in the resolution of a complaint.

For further information, please see the City's EEO Policy, available on the City of Chicago, Department of Human Resource's website: <https://www.chicago.gov/city/en/depts/dhr.html>.

## **VIII. TERMINATION OF MILITARY LEAVE OF ABSENCE ENTITLEMENTS**

A City employee's entitlement to military leave will terminate if any of the following events occur:

1. The employee is separated from uniformed service with a dishonorable or bad conduct discharge;
2. The employee is separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
3. The employee is a commissioned officer dismissed as permitted under 10 U.S.C. § 1161(a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
4. The employee is a commissioned officer dropped from the rolls under 10 U.S.C. § 1161(b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.
5. Any other terminating events or criteria specified in federal, state, or local law.



## **CITY OF CHICAGO MILITARY LEAVE POLICY**

### **Appendix A - Military Commitment Accommodation Requests**

#### **Overview**

The City of Chicago values its employees who also serve in the military and encourages their applications for positions within the City of Chicago. If any current employee (“Applicant”) applies for a position that requires an examination and is unable to take the examination at the time and location it is being administered due to a military commitment, the applicant shall provide the City of Chicago Department of Human Resources (“DHR”) notification via electronic mail (“email”) at the email address identified in the test invitation email or Official Invitation Letter.

The email notification to DHR should be sent no later than seven (7) business days from the date the applicant is or should be aware of the location, date and time of the examination.\* Such email notification shall include the following information:

1. “Military Commitment Request – Position Title” in the email subject line;
2. Name of examination and date of examination at issue;
3. Applicant’s name, City employee ID number, City operating department, and current job title;
4. Applicant’s preferred contact information (i.e. email address, phone number);
5. Name, email address, and phone number of an emergency/alternate contact person;
6. First date or anticipated first date and last date of military service;
7. Title of position and department for which the applicant is applying;
8. Documentation of military service, including orders and/or a letter from a commanding officer (documentation must indicate military service on the date of the examination at issue); and
9. The alternative being requested: either remote examination\*\* on the scheduled examination date or a make-up examination at a future date to be determined by the City. If a make-up examination is requested, please state the reason(s) remote testing on the scheduled examination date is not possible.

Providing the = information above will allow DHR to expedite review of the applicant’s accommodation request before the test date at issue. Once the applicant provides DHR with notification and all requested information, DHR will review the request, including any supporting documentation, and will contact the applicant to:

1. Ask for additional information, if necessary;

- 2) Identify next steps in the process; and/or
- 3) Notify applicant of the accommodation determination.

**REMOTE TESTING DETERMINATION:** If DHR determines an applicant is able to complete the examination through remote testing on the date the test is administered, DHR will communicate that decision to the applicant and/or alternate/emergency contact in writing in sufficient time to allow the applicant to adequately prepare for the examination.

**MAKE-UP EXAMINATION DATE DETERMINATION:** Once the applicant completes military leave, the applicant will notify DHR (via the DHR email address identified in the testing announcement) they have returned to work from military leave within five (5) business days of said return to work. The applicant's email notification to DHR shall include their name, email address, and phone number of an emergency/alternate contact person. The make-up examination date will be determined by DHR based on a number of factors including, but not limited to, the length of the military assignment, the amount of time the applicant may need to adequately prepare, and the number and circumstances of other applicants also in need of a make-up exam.

*\*Current employees who are on military duty at the time of the job application and testing process and do not learn about the job opportunity or are unable to timely complete an application due solely to the nature of their military assignment, should notify DHR as soon as they become aware of the job opportunity that they will want to take a make-up exam upon their return from service.*

*\*\*Remote examination refers to the same day administration of a test at the location of the military assignment, instead of in the city of Chicago.*