



TOWN OF NORWOOD PERSONNEL BOARD

#P-305 – MILITARY LEAVE POLICY

1. Purpose and Scope

The purpose of this policy is to ensure that the rights of employees who are reservists, National Guard Members, or who leave Town service to enter the Armed Forces, are balanced with the need of the Town to maintain essential services in an efficient manner.

2. Applicability

- 2.1 This policy applies to all full and part-time compensated positions, excluding elected officials and employees of the School Department. Positions covered by Civil Service Law or a collective bargaining agreement are subject only to those portions of the policy which are not separately regulated by Civil Service Law or by a collective bargaining agreement.
- 2.2 To the extent permitted by law, individual employment agreements (new, updated or extensions) entered into after the effective date of this policy, with employees whose positions are subject to this policy, must follow all of the provisions of this policy.
- 2.3 There are other Town personnel policies that may affect an employee who is out on Military Leave. Please consult the Family and Medical Leave Act Policy [#P-301], the Vacation Leave Policy [#P-302] and the Sick Leave Policy [#P-304] by going to www.norwoodma.gov and click on Committee/Boards, click Personnel Board, and then click Town Personnel Policies to view these and other Town personnel policies.
- 2.4 This policy is intended to be consistent with any and all applicable laws. If any part of this policy is inconsistent with the law, that part of the policy shall be considered invalid, and the remaining provisions of the policy shall be construed so as to be consistent with the law.

3. Definitions

- 3.1 Please consult the Personnel Definitions Document (#D-100) regarding terms utilized throughout this policy.
- 3.2 Military Leave
 - 3.2.a Time off for certain types of active or inactive duty in the Armed Forces, National Guard or as a Reserve of the Armed Forces.
 - 3.2.b For the purposes of the federal Uniformed Services Employment and Reemployment Act (USERRA), the commissioned corps of the Public Health Service

- 3.3 Active Duty – that period during which an employee is officially called up for military service and is subsequently unable to report to work.
- 3.4 Initial Active Duty Training (IADT) – that training period completed by a reservist or National Guard member when he/she first joins the service, which is not otherwise defined by law as falling within the scope of the definition of Active Duty, above.
- 3.5 Inactive Duty Training – that training performed by a reservist or National Guard member on an on-going basis such as weekend drills, which is not otherwise defined by law as falling within the scope of the definition of Active Duty, above.
- 3.6 National Guard – as defined by law, which generally includes an organized unit of the ready reserve of a State or Commonwealth jointly maintained by the federal or state government subject to the call of either.
- 3.7 Reserve Forces – as defined by law, which generally includes an organized unit of the ready reserve of the Armed Forces of the United States of America: the Coast Guard, the Navy, the Marine Corps, the Army or the Air Force.

4. Eligibility

- 4.1 Regular Full-time and Regular Part-time employees budgeted for and regularly scheduled to work at least 20 hours per week, are eligible for military leave benefits.
- 4.2 Part-time employees budgeted for and regularly scheduled to work fewer than 20 hours per week, Intermittent/Seasonal/Temporary Employees, Interns, and Volunteers are not eligible for military leave benefits.

5. Policy

- 5.1 Federal and state laws require that veterans and reservists be granted certain employment rights, including a right to reemployment in certain circumstances. The Town will comply will all applicable laws and regulations governing military leave, including initial active duty for training, inactive duty training (such as weekend drills) and temporary and long term active duty.
- 5.2 State Armed Services & Reserve Service Pay: where M.G.L. c. 33, s. 59 applies, and in accordance with M.G.L. c. 33, s. 59, a full time or permanent part time employee who is a member of the armed forces of any state within the United States of America or a federal military reserve unit shall be entitled to be paid while on leave of absence for certain compulsory military service covered by this statute, or as part of his annual tour of duty, for a period not to exceed thirty-four (34) calendar days per state fiscal year (but also not exceeding seventeen (17) calendar days in any federal fiscal year) without loss of ordinary remuneration from the Town while on leave.
- 5.3 Active Duty Pay
 - 5.3.a In accordance with Chapter 137 of the Acts of 2003 (as amended by Chapter 77 of the Acts of 2005, and as extended by subsequent legislative action), military leave

of absence with pay shall be granted, where applicable, to full time and permanent part time employees who are called for active service with the National Guard or reserve component of the armed forces of the United States subsequent to September 11, 2011

- 5.3.b For purposes of this section, active service shall not include active duty for training purposes. In accordance with the legislation, such pay will be reduced by any amount received from the United States as base pay for military service performed during the same pay period.
- 5.3.c When the pay requirements of Chapter 137 of the Acts of 2003 (as amended) expire, the Town will re-visit the issue of whether or not and to what extent the Town compensates employees for Military Leave.
- 5.3.d Human Resources' will meet with an employee to identify the specific pay amount in advance of the leave beginning.
- 5.4 Draft Board Appearances and Physicals: Leave without loss of regular straight time pay shall be granted to employees on occasion of their required appearance under orders before armed forces draft boards or for physical examinations required by such boards during normally scheduled work hours.
- 5.5 Department Heads are required to act consistent with this policy and ensure this policy is implemented consistently within their department.
- 5.6 In the event of an error or violation of this policy, either intentional or unintentional, Human Resources must be immediately informed. Human Resources will identify and make the proper correction(s). A violation of this policy, whether intentional or unintentional, will not change this policy, nor set a precedent in any future application of this policy.

6. Provisions

- 6.1 General Procedures
 - 6.1.a Full-Time and permanent part-time employees who are members of a state or federal military reserve unit or National Guard shall be entitled to a leave of absence from a permanent position for active duty for training or inactive duty training (drills & battle assemblies).
 - 6.1.b Employees who resign from Town service for the purpose of entering Active Duty in the Armed forces of the United States, including the National Guard, shall be entitled to certain re-employment rights with the Town, in accordance with the law.
 - 6.1.c The Department Head shall report employee requests for military leave to the Human Resources Director as soon as is administratively practicable.
- 6.2 Inactive Duty for Training/Drills
 - 6.2.a Employees who are reservists or members of the National Guard may not be denied retention in, or any other advantage of, employment due to military obligations.

- 6.2.b An employee who is required to report for inactive duty training must inform his/her department manager in the form of a written or verbal request for military leave unless precluded by military necessity or providing such request is otherwise unreasonable. The reservist or National Guard member need not have written orders at the time of the request, but must eventually produce written documentation.
 - 6.2.c Reservists and National Guard members shall not be forced to utilize his/her personal, vacation or other accumulated leave time for military training, unless he/she so chooses.
 - 6.2.d Where permitted by law, certain benefits may be pro-rated for time off the payroll in accordance with Section 5.4 of this policy or in accordance with the applicable town policy (such as the Vacation Policy and Sick Leave Policy).
- 6.3 Active Duty for Training and Active Duty
- 6.3.a Initial Active Duty Training (IADT), (which occurs when an employee first signs up to be a member of the reserves or National Guard), is treated in the same manner as regular active duty for the purposes of re-employment rights.
 - 6.3.b Reservists and National Guard Members are sometimes called to perform regular active duty, voluntarily or involuntarily (e.g. on a short term, temporary basis during a blizzard, or on a long term mission in the event that the President of the United States "calls up" the reserves).
 - 6.3.c Except for emergency situations, or unless precluded by military necessity or is otherwise unreasonable, employees called for active duty must request a Military leave of absence, verbally or in writing, for the period of the leave, or may choose to resign. Employees who request a Military leave of absence will be required to submit documentation as proof of active duty service as soon as is practicable.
 - 6.3.d Department managers should immediately notify the Human Resources Department when approving the Military leave or in the event of the resignation of a reservist/National Guard member under orders.
- 6.4 Reemployment
- 6.4.a In accordance with the requirements of federal or state law, where applicable, an employee returning from military service is entitled to be returned to work or re-hired within a reasonable period of time, but in no instance beyond the time required by any applicable law.
 - 6.4.b An employee returning from military service is generally entitled to the position that would have been attained but for the leave taken for military service. The exact position of reemployment is determined by federal law and, where applicable, and may depend on relevant collective bargaining agreements, personnel policies, and changes in the nature of the work environment (e.g. layoffs).
 - 6.4.c An employee returning to service of more than 180 days is entitled to be retained on the job for at least one year, unless discharged for cause as defined under USERRA. An employee returning from service of more than 30 days, but less than 181 days, is entitled to be retained on the job for at least 180 days, unless discharge for cause.

- 6.4.d The returning employee is entitled to the pay-level that would have been attained if it had not been for military service. This includes cost of living adjustments and length of service increases (such as longevity), step increases, but not merit increases based on satisfactory performance of the job.
- 6.4.e The employee is entitled to full credit for any job seniority lost as a result of military service. The length of service therefore includes: employment prior to military service; a reasonable time between leaving the job to enter military service and the date of entry into military service; the entire period of the military service; and the period between release from service and return to work.
- 6.4.f The returning employee is entitled to retirement credit as if his/her employment had continued without interruption.
- 6.4.g Reservists or National Guard members on Inactive Duty Training must report back to work for the next regularly scheduled work period after training ends.
- 6.4.h Persons in USERRA qualifying service must notify the Town of their intent to return to employment as follows:
 - 6.4.h.i for service of less than 31 days, by reporting to the employer no later than the first full regularly scheduled work period on the first full calendar day following the completion of the service (unless unreasonable to do so);
 - 6.4.h.ii for service of more than 30 but less than 181 days, by submitting an application for reemployment not later than 14 days after the completion of the service, unless to do so is unreasonable;
 - 6.4.h.iii for service of more than 180 days, by submitting an application for reemployment not later than 90 days after completion of the service.
- 6.4.i It is unlawful to discriminate against a reservist or National Guard member as a result of his/her military obligations (e.g. lack of consideration for promotion, or discharge without just cause).

6.5 Reemployment Rights

- 6.5.a Employees are entitled to reemployment for Active Duty service of not more than five years (more if extended at the request of the United States Government or if other statutory exceptions in 38 USC 4312 apply). Any service on Initial Active Duty for Training will not be included for the purposes of calculating the number of years of Active Duty Service.
- 6.5.b The returning veteran or reservist must still be qualified to perform the duties of the position. An employee who is disabled during military service and who cannot perform the duties of the otherwise appropriate job may be entitled to the nearest comparable job he/she is qualified to perform, as discussed in Section 5.4.b of this policy
- 6.5.c The veteran or reservist must apply for reemployment within 90 days after separation from military service or from hospitalization continuing after separation for not more than one year.

6.6 Leave and Benefit Procedures

- 6.6.a Time spent on unpaid military leave of absence will affect the employee's length of continuous service for step increases and eligibility for leave and benefit accrual.
- 6.6.b **Sick Leave Accrual** - Employees who are on unpaid military leave of absence for more than five days in a calendar month shall not accrue non-occupational sick leave for that month. If there is a verified employee work schedule issue, the HR Director shall prorate the accrual for these months.
- 6.6.c **Health/Life Insurance**
 - 6.6.c.i Employees granted an unpaid Military leave are entitled to continue under the Town's health insurance plan as provided under USERRA, 38 USC 4317 for up to 24 months or when the employee fails to report or reapply for the position subsequent to his military service, whichever time period is lesser. An employee will be required to pay not more than 102% of the full premium under the plan, except that an employee absent on military leave for less than 31 days will be required to pay only the employee contribution for this time period. Employees who do not receive a paycheck for a particular week must pay the appropriate premium directly to the Town during the week that the deduction would have been made, had the employee been on the payroll.
 - 6.6.c.ii Employees granted an unpaid military leave of absences for more than 30 calendar days must pay the full cost (100%) of the premium directly to the Town, one month in advance of coverage, in accordance with M.G.L. Chapter 32(B).
- 6.6.d **Step Increases** - An employee who is granted unpaid Military leave of absence of more than ten days per fiscal year shall have his/her next satisfactory performance step date (if applicable) adjusted by the number of calendar days spent on unpaid leave.
- 6.6.e **Longevity** - Unpaid Military leave of absence shall not affect an employee's continuous service for the purposes of longevity.
- 6.6.f **Retirement** – During periods of Military leave, the Town will deduct retirement contributions from any payments of salary made by the Town to the employee that would otherwise be considered “regular compensation,” and the Town will make any other retirement contributions required by law on the employee’s behalf. Under present law, time spent on Military leave for active duty and initial active duty training will be considered “creditable service” under M.G.L. c. 32. Employees with questions about the effect of their Military Leave on their retirement are encouraged to contact the Norwood Retirement Board for additional information.

6.7 Resources

- 6.7.a Additional information can be obtained by contacting the Human Resources Department or the Veterans’ Service Director.
- 6.7.b Town of Norwood employees who are members of the military are encouraged to utilize the Employee Assistance Program (EAP). The EAP can be reached at 1-800-333-6624.

7. Applicable Laws / Statutes

A number of laws are implicated by this policy, which outline the obligations and responsibilities of both the employee and the employer with respect to an employee entering and subsequently returning from any US Armed Forces. These include, but are not limited to:

- Family and Medical Leave Act [*see the Town's FMLA Policy - #P-301*]
- Uniformed Services Employment and Reemployment Rights Act (USERRA)
- MGL Chapter 33, Section 59 (adopted by Town Meeting on May 8, 2000)
- MGL Chapter 137 of the Acts of 2003, Section 1, as amended by Chapter 68 of the laws of 2011 (adopted by Town Meeting on March 11, 2004)
- MGL Chapter 149, Section 52A
- MGL Chapter 32, Retirement Systems and Pensions

The following document associated with and attached to this policy may change to meet the needs of the Town or new requirements of law. The HR Director may make the necessary document changes without changing the intent or content of this policy. Please consult the Human Resources Department for the most current version:

- #D-127 - Employee Acknowledgement of Receipt of Policy

PERSONNEL BOARD

For the Personnel Board:

David E. Hajjar

11 / 19 / 14

David E. Hajjar, Chairman

Anne Haley, Vice-chair

Willard Krasnow

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