

## **Personnel Rule 7.9—Military Leave**

### **7.9.0 Authority**

SMC 4.04.040 and subsequent revisions thereto, Administration.

SMC 4.04.050 and subsequent revisions thereto, Rule-making authority.

SMC 4.36.125 and subsequent revisions thereto, Determination of creditable service.

RCW 38.40.060, Military leaves for public employees.

RCW 73.16.033, Reemployment of returned veterans.

RCW 73.16.035, Eligibility requirements – Exceptions – Burden of proof.

38 USC § 4301, et seq, Uniformed Services Employment and Reemployment Rights Act.

### **7.9.1 Definitions**

- A. "Appointing authority" shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City, or a designated management representative. The term includes and can be used interchangeably with department head, department director, superintendent, and chief.
- B. "Day" shall mean the employee's normal workday for purposes of paid military leave, except that when a normal workday begins before midnight and ends after midnight, the hours before midnight count as 1 day and the hours after count as another.
- C. "Regularly appointed employee" shall mean an individual with a probationary, regular or exempt appointment to a position of City employment.

### **7.9.2 Application of this Rule**

- A. The provisions of this Rule apply to regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- C. This Rule does not apply to temporary employees. Temporary employees are governed by Personnel Rule 11 and applicable federal, state and local laws.
- D. This Rule does not apply to individuals who are employed under the terms of a grant that includes military leave provisions that conflict with the provision of this Rule.

- E. Appointing authorities may establish written policies and procedures for the implementation and administration of this Rule to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

### **7.9.3 Military Leave for Active Duty in the Armed Forces**

The City will comply with the requirements of RCW 73.16 and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, with respect to unpaid leave of absence and return rights for employees who leave City service to serve in the Armed Forces of the United States.

- A. An employee who takes a military leave of absence from City employment may choose to run out his or her unused vacation balance, compensatory time off, personal holidays, and executive and merit leaves, as applicable, prior to going on unpaid status.
- B. An employee who leaves a job, voluntarily or involuntarily, to enter active duty in the United States armed forces, shall be granted a military leave of absence with guaranteed restoration to his or her position upon release from active duty as long as:
  - 1. The position is a regularly budgeted, non-temporary position;
  - 2. The reason the employee leaves the position is to report for active duty;
  - 3. The length of the employee's military leave of absence does not exceed 5 years except at the request of the federal government;
  - 4. The employee is honorably discharged from the military; and
  - 5. The employee applies for reemployment within a reasonable period of time following separation from active duty. The USERRA defines a reasonable period of time as:
    - a. For service less than 31 days, the beginning of the first regularly scheduled work day after release from active duty, allowing time to travel from the duty arena to the employee's residence, to rest, and to travel to the place of employment;
    - b. For service between 31 and 180 days, no more than 14 days following release from active duty; and
    - c. For service longer than 180 days, no more than 90 days following release from active duty.
    - d. An employee on military leave of absence shall continue to accrue service credit for purposes of salary step increments and seniority.
    - e. An employee's vacation accrual rate and unused vacation and sick leave balances shall be restored upon return from military leave of absence.
    - f. An employee who interrupts his or her probation or trial service with a military leave of absence shall complete the remainder of the probationary or trial service period upon return. However, an employee returning from military leave of absence cannot be discharged except for cause for 1 year following his or her return,

if the military leave of absence was for 181 days or longer, or for 6 months following his or her return if the military leave of absence was at least 30 days but less than 181 days.

- g. An employee on unpaid military leave of absence may continue to make his or her normal contributions to the Seattle City Employees Retirement System, or may, upon return from such leave, make full or monthly payments equal to the amount of contributions missed while on leave, in order that the leave shall count as creditable service.

#### **7.9.4 Paid Military Leave**

State law (RCW 38.40.060) requires that City employees be granted up to 21 working days, exclusive of normal days off, of paid leave per year without loss of service credit for active duty or annual military training.

- A. The 21 days are counted on an annual basis, October 1st through September 30th inclusive, and need not be used consecutively.
  - 1. Each day of paid military leave is the equivalent of a regularly scheduled workday, except when an employee's regularly scheduled workday spans 2 calendar days (i.e., third or "graveyard" shift). In those instances, 1 workday ends at midnight and the next begins at 12:01 a.m. (For an employee who works 10 p.m. to 6:30 a.m., for example, 10 p.m. to midnight would be day 1 of his or her military leave, and 12:01 a.m. to 6:30 a.m. and 10 p.m. to midnight the following day would constitute day 2 of his or her military leave.)
- B. The employee receives full City pay and benefits, including normal sick leave and vacation accrual, at the same level and under the same conditions as if he or she were at work, while on paid military leave.
- C. The department should verify requests for paid military leave by having the employee submit a copy of his/her military orders with the request for military leave.