



POLICIES AND PROCEDURES

SUBJECT Military Leave	DEPARTMENT Human Resources		DEPARTMENT IDENTIFICATION 1400	
	SECTION 1420	PAGES 1-3	EFFECTIVE DATE 1/1/82	REVISION DATE 04/03/13

1.0 PURPOSE:

To describe the policies and procedures of the City of West Allis when City employees take leave for military service.

2.0 ORGANIZATIONS AND PERSONS AFFECTED:

This policy applies to all City of West Allis departments, boards, commissions, and employees except as otherwise noted below.

3.0 POLICY:

It is the policy of the City to grant military leave to all eligible employees and to provide for the reinstatement of said employees upon their return from military service in compliance with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

4.0 REFERENCES:

- City of West Allis Revised Municipal Code, Section 2.76(14)
- ~~City of West Allis Civil Services Commission Rules and Regulations, Rule XVII~~
- City of West Allis Policies and Procedures
 - [Policy 1412 - Holidays](#)
 - ~~Manual~~, Policy 1413 – Health and Dental Insurance
 - [Policy 1432 – Vacation](#)

Uniformed Services Employment and Reemployment Rights Act (USERRA)
Sections 321.63, 321.64, and 321.65 Wis. Stats.

5.0 PROCEDURES:

(1) GENERAL POLICIES

- (a) Employees of the City, who are now or hereafter become members of a uniformed service, shall be granted leaves of absence during any period of active or inactive training or duty in such service.
- (b) Employees, except temporary employees as defined in section [5-2-1\(2\) \(a\)](#) below, taking leave for military service have a right to be reemployed upon their return provided the employees:
 - 1. Give the City advance written or verbal notice of their service and submit appropriate documentation, unless giving such notice is impossible, unreasonable, or precluded by military necessity;
 - 2. Have five years or less of cumulative service in the uniformed services while with the City. Note: service during a declared national emergency and annual training in the Guard or Reserves is not counted toward the five-year cap;

3. Return to work or apply for reemployment in a timely manner after conclusion of service; and
4. Have not been separated from service with a disqualifying discharge or under other than honorable conditions.

- (c) Except as set forth in section [5-3\(3\)](#) below, employees shall not be entitled to any wages while absent for military service. For a period of up to forty-five (45) consecutive days said employees shall be entitled to all other benefits of City employment. Employees on military leave may, but cannot be required to, use previously accrued paid leave (e.g. vacation). [Employees are entitled to the rights and benefits that the City provides to other employees who are on leave of absence with similar seniority, status and pay.]

Should an employee opt not to use previously accrued paid leave, the time off shall be documented as unpaid Military Leave (coded as "VM" for City timekeeping purposes).

- (d) Health Insurance. Employees called up to active military service beyond the forty-five (45) days referenced in section [5-1-3\(1\)\(c\)](#) above, shall be provided health insurance coverage in accordance with the provisions contained in Policy 1413 (Health and Dental Insurance) of the Policies and Procedures Manual.

1. Pension Benefits. For Wisconsin Retirement System (WRS) purposes, an employee leaving their job to perform military service is placed on unpaid military leave of absence. Neither the City nor the employee is required to make WRS contributions during the employee's military leave of absence. The City will make applicable employer-required contributions [and any employee-required contributions mandated under the terms of a collective bargaining agreement] upon the employee's return from active military duty and reemployment with the City. Once an employee who is responsible for making the WRS employee-required contributions is no longer on active military duty and is reemployed with the City, the employee may choose whether they will make up none, some or all of the missed WRS employee-required contributions. Any "make up" contributions shall be made beginning with the date of reemployment and ending on the earlier of: (1) three times the period of military service, or; (2) five years. The City shall make employer-required contributions to match the contributions made by the employee. The City will also fund any additional obligations, including interest that would have accrued on the employee- and employer-required contributions, once those contributions are made.

Once the employee returns to work with the City, the City will submit the USERRA Certification form (ET-4560) with a copy of the employee's DD-214 or, if the employee did not receive a DD-214, based on the employee's length of military service, submit the employee's military orders.

(2) ACTIVE DUTY

- (a) Reinstatement. Employees, other than temporary employees who hold brief or non-recurrent positions and who have no reasonable expectation that their employment will continue indefinitely or for a significant period of time, are entitled to reemployment rights following uniformed service. Upon completion and release from active duty under honorable conditions, an employee shall be reinstated into the position held at the time of taking such leave of absence, with the same seniority, pay, status, and benefit rights they would have had if they had worked continuously, or to a position of like seniority, status, pay, benefits and salary advancement; provided however, that he or she is still qualified to perform the duties of his or her position or similar position. If he or she is not so qualified, he or she shall be employed in such position for which he or she shall be qualified at seniority, status, pay, benefits and salary advancement of the position held at the time of taking such leave. Any person occupying a probationary status upon commencing military leave shall revert to such status upon reinstatement.

The positions of employees on military leave shall not be filled, except by appointment through the certification of the persons next eligible. The persons appointed to fill such positions during the absence of employees on military leave shall, upon the latter's reinstatement, be transferred to similar positions, if one is available, or if not, their name shall be placed on the appropriate reinstatement lists in accordance with ~~the Rules of the Civil Service Commission and/or any~~ other City policies, rules or regulations.

- (b) Application for Reemployment. For leaves of more than 180 days, employees must apply for reemployment within ninety (90) days of discharge from the military. For leaves of 31 to 180 days, employees must apply for reemployment within fourteen (14) days of discharge. For leaves of less than 31 days, employees must apply for reemployment the next full workday plus 8 hours for safe travel. Employees who fail to report for work within the prescribed time after completion of military service will be considered to have voluntarily terminated their employment.
- (c) Nothing contained herein shall be construed as limiting the authority of the [Civil Service Commission](#) to require a person to provide proof of discharge under honorable conditions or any other pertinent administrative data.

(3) RESERVE OR NATIONAL GUARD TRAINING

- (a) Pay for Training. Employees of the City, other than persons filling temporary appointments as described in section [5.2.1\(2\) \(a\)](#) above, who are required to attend training as members of the military service shall receive up to ten (10) days of pay per calendar year while attending said training. The first ten (10) days of leave taken will be applied in the sequential date order the leave is used within the calendar year.

Employees' pay for the period of such leave, including travel time, shall be the difference between their salary or wages (without overtime), and basic military pay, if the military pay is the lesser. In the event the military pay meets or exceeds the employee's pay for the period of such leave, then no payment for salary or wages will be paid to the employee from the City. The [Manager of Finance/Comptroller/Finance Director or designee](#) shall require the persons to furnish proof as to the number of days spent in active duty training, including travel time, and as to the amount of basic military pay by certified copy of the employees' orders, or in such other form as the [Manager of Finance/Comptroller/Finance Director or designee](#) may in his or her judgment deem acceptable, within 30 calendar days of reemployment. No adjustment in employees' total annual salary shall be made on account of the provisions of this section in reporting to the state retirement fund or group insurance board.

- (b) Employees shall not be entitled to any wages for any period of time beyond ten (10) days, but shall otherwise be entitled to all other benefits of City employment up to a period of forty-five (45) consecutive days.