

## MILITARY LEAVE POLICY

### **A) READY RESERVE/TEMPORARY MILITARY TRAINING:**

This policy is adopted pursuant to and in accordance with the General Laws of Massachusetts, Chapter 149, Section 52A and provides certain protections to all non-temporary town employees who as a member of an Organized Unit of Ready Reserve are called to temporary military training.

Employees are eligible to receive paid leave not to exceed seventeen (17) days in a calendar year, compensated at their regular rate of pay, less any military pay received for said leave. Any military reserve leave in excess of seventeen (17) days in a calendar year shall be unpaid. Employees may use accrued Vacation and Personal Leave and all provisions and practices for such leave applies. Employees must give written notice of the date of departure and date of return as soon as practicable after having received training orders.

Employees are entitled to be restored to his/her previous position or a similar position with the same status, pay and seniority immediately following such training, provided they are still qualified to perform the duties of the position. The employee's absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of employment normally to be anticipated in her/his particular position.

### **B) ACTIVE MILITARY DUTY:**

This policy is adopted pursuant to and in accordance with the provisions of the Uniformed Services Employment and Re-employment Rights Act (USERRA). USERRA applies to any employee absent from work because of "services in the uniformed services". In general, that means the employee is engaged in voluntary or involuntary duty in a uniformed service, including active and inactive duty. "Uniformed Services" is defined broadly to include the Army, Navy, Air Force, Marines, Coast Guard, Army National Guard and Air National Guard and provides re-employment, health benefits and retirement benefits.. By statute, Public Employees called to active duty are "deemed to have been granted leave without pay".

#### **Notice Requirement:**

An employee is required to provide the town with advance written or oral notice of his or her service obligations to be entitled to USERRA's re-employment rights and benefits. Written notice typically consists of a copy of an employee's military orders, training notices, or induction information. In extraordinary circumstances, where notice is impossible or unreasonable, the notice requirement may be waived.

#### **Re-Employment Rights:**

Re-Employment Rights depend on how long the employee has been in military service:

- (a) if less than 31 days – the returning employee must seek re-employment no later than the beginning of the first full work period on the first full calendar day following completion of service;
- (b) if 30 days but less than 181 days – the returning employee must seek re-employment no later than 14 days following the end of service;
- (c) if more than 180 days – the returning employee must seek re-employment no later than 90 days after discharge;
- (d) if injured during military service – the employee has up to two (2) years to apply for re-employment;

**Job Rights:**

If the military service was less than 91 days, the returning employee must be re-employed in the position that the employee would have had in the absence of military leave.

**Discharge:**

- (a) if the military service was more than 30 days but less than 181 days – the employee is protected from discharge without cause for six (6) months following re-employment;
- (b) if the military service was for more than 180 days – the employee is protected from discharge without cause for one (1) year following re-employment.

**Insurance Benefits:**

Insurance Benefits will continue for the employee on military leave. The employee will be responsible to make timely payments of the portion of the monthly premium he or she would otherwise have deducted from her/his salary.

An employee called to military duty for more than 30 days is eligible for military health and medical coverage. Their families are also covered. Coverage is only for the period that the reservist is on active duty. Under the military program, there is a coordination of benefits when an individual has dual coverage, with the employer’s plan being the primary provider.

Where the employee did not continue coverage during military service, the employee, upon re-employment, must receive coverage without any exclusion or waiting period.

**Retirement:**

An employee who is reinstated after a military leave of absence receives credit in the retirement system for the period of leave. Upon reinstatement the employee pays into the retirement system the amount the employee would have paid had his/her employment not been interrupted by military service.

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**ADOPTED:** Personnel Board: 11-19-03, 2-11-04, 3-17-04  
 Board of Selectmen: March 22, 2004  
**REVIEWED:**  
**AMENDED:** Labor Counsel: January 13, 2004  
**ATTACHMENT:** MGL Chapter 149 Section 52A

The terms of collective bargaining agreements supercede any provisions of any personnel policies the town establishes. If a collective bargaining agreement is silent on a topic or a subject matter within a topic these policies are intended to apply. Where the provision of a collective bargaining agreement between the town and a union conflict with a provision of a town personnel policy, the collective bargaining agreement provision will govern for those employees covered by the agreement.

# GENERAL LAWS OF MASSACHUSETTS

## PART I. ADMINISTRATION OF THE GOVERNMENT

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### TITLE XXI. LABOR AND INDUSTRIES

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#### CHAPTER 149. LABOR AND INDUSTRIES

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##### PRIVATE EMPLOYMENT

#### **Chapter 149: Section 52A Ready reserve; absence from work for military training; non-compliance**

Section 52A. Any member of an organized unit of the ready reserve of the armed forces, who, in order to receive military training with the armed forces of the United States not exceeding seventeen days in any one calendar year, leaves a position other than a temporary position in the employ of any employer, and who shall give notice to his employer of the date of departure and date of return for the purposes of military training, and of the satisfactory completion of such training immediately thereafter, and who is still qualified to perform the duties of such position, shall be entitled to be restored to his previous, or a similar, position with the same status, pay and seniority, and such period of absence for military training shall be construed as an absence with leave and, within the discretion of the employer, said leave may be with or without pay.

Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his employment normally to be anticipated in his particular position.

If any employer fails to comply with any of the provisions of this section, the employee may, at his election, bring an action at law for damages for such non-compliance or apply to the courts for such equitable relief as may be just and proper under the circumstances.

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