

## 3-02/030.10 - Military Leave

Nothing in this MPP is intended to supersede or replace existing Federal, State or County laws, rules, regulations, policies, or procedures. The contents of this MPP are not a substitute for applicable statutes.

Military leave is defined as a leave of absence for an employee who leaves their position with the Department to serve in the armed forces of the United States, as well as the employee's reinstatement rights, upon completion of that military service.

The Sheriff's Department recognizes four types of military leave that are granted to its members. Those leave types are:

- **Short-term Leave** - means a leave for six months or less;
- **Long-term Leave** - means a leave for more than six months;
- **Emergency Military Leave** - means a leave for members of the California Army and Air National Guard during such time as the Governor issues a proclamation of a state of emergency; and
- **War or National Emergency Leave** - means a leave when the President declares a state of national emergency.

### **Military Leave Benefits – Full Pay for the First 30 Calendar Days**

Under the *California Military and Veterans Code*, the first 30 calendar days of any period of active service is paid at full County pay and benefits. This compensation is in addition to the pay an employee otherwise receives from the military.

Ideally, the employee should provide a copy of the military orders, prior to activation, showing the type and dates of military duty. However, it is not uncommon for military activation and deployment to be communicated on a short-notice. As such, the activated reservist need only verbally notify the Department of the military activation to initiate Military Leave. Employees are responsible for providing military orders and/or copies of military paychecks (for County Special Military Leave Program only) to validate paid military leave eligibility.

To qualify, the employee must have:

- Been employed by the public agency, for at least one year prior to the leave. Any recognized prior military service shall be counted toward this requirement.
- Ordered into "active" military duty.
- Been inducted or enlists or volunteers for active military duty.

Public agencies, as in the case of the County of Los Angeles, are not required to provide paid Military Leave for "inactive" service.

### **Eligible Employees:**

An "Eligible Employee," for the purposes of this Section is defined as:

- A member of the reserve corps of the armed forces (reservist);
- Who is called into active military duty;

- Who has completed at least one year of service with the County (**Note:** Prior military service can be counted for this purpose and the prior military service could have been served at any time prior to County service); and
- Who provides acceptable documentation verifying active duty service (e.g., Certificate of Discharge from Active Duty form DD-214). The DD-214 form displays the dates of active duty service during a specified deployment, mobilization, or general active duty.

### **Military Leave Benefits – “Salary Offset Pay” for 31st Calendar Day to Unlimited Time**

- This benefit is commonly referred to as military “offset pay” and provides the difference between an employee’s regular County salary and his/her military pay.
- While on leave, for each continuous period of active military service (31 days to unlimited), the employee is entitled to: salary offset; the County’s monthly allowance towards the purchase of benefits; and continued accrual of leave benefits (e.g., vacation leave and holiday time), as if the activated employee had not left County service.
- Salary offset is an extension of pay and benefits, for those employees who are called to active military service in connection with the global war on terrorism.
- Since military pay is generally less than County pay, the County provides employees on active duty with a benefit that ensures their minimum County pay is maintained, during the course of their activation. This is an effort to relieve any financial hardship that may be encountered, due to their Armed Forces service.

### **Responsibilities:**

#### **Employee Shall:**

- Submit, as soon as possible, at least one copy of the military orders to their unit commander. The orders shall specify the type of duty performed and the period of duty;
- Submit a Request for Leave of Absence form (SH-AD-113);
- When necessary, submit a copy of the Military Separation Papers (DD-214) to substantiate military service periods and status of service (e.g., honorable, etc.). Separation papers are only required for periods of 30 days of service or longer; and
- Complete and submit the Military Leave Check-Out form (SH-AD-692).

#### **Unit Commander or Designee Shall:**

- Review the military orders and determine the employee’s pay status (i.e., paid military leave or personal accrued leave benefits);
- Sign the Request for Leave of Absence form and submit to the unit time accountant;
- Forward one copy of the approved time off request, Request for Leave of Absence form, and a copy of the orders to Personnel Administration Bureau, Leaves Unit, within two days;
- Upon the employee’s return, complete the Military Leave Check-In form (SH-AD-693).

#### **Unit Time Accountant Shall:**

- Post the employee’s time as consecutive calendar days that coincide with the starting and ending dates on the military orders.

**Equipment:**

- If the period of active duty is scheduled to last more than six months (180 days or more):
  - - All employees shall turn in all County issued equipment, including weapons and uniforms, to Logistics.
    - Non-sworn employees shall turn in all badges and identification (ID) cards to Personnel Administration Bureau.
    - Sworn employees may retain their flat badge and ID card, regardless of the length of the deployment.
- If the period of active duty is anticipated to be less than six months (less than 180 days):
  - - All employees shall retain their equipment and shall ensure it is safely secured.

**Inactive Duty for Training (Weekend Drills)**

Reservists required to attend scheduled reserve drill periods to fulfill military obligations are entitled to military leave. This type of leave is without pay; however, employees may elect to use their personal accrued leave benefits, vacation leave, holiday time, or compensatory time off (CTO) to cover their absence. If an employee does not have sufficient time available, the time off to perform the reserve drill will be without pay. If the employee's reserve obligation falls on a regular work day and the Department is given at least five working days' notice, then the unit shall make every attempt to change the employee's schedule to avoid the necessity of using Vacation Leave and/or other accrued leave benefits. The employee may also elect to schedule the drill training period to coincide with their regular-days-off (RDO's) if their military unit allows this practice.

- Any employee who is required to attend inactive duty training (weekend drills) shall be granted the time off;
- The Department cannot require an employee to reschedule their drills; however, it is permissible for the unit to contact the reservist's military commander to determine if the military duty can be rescheduled.

**NOTE:** To qualify for paid military leave, the employee shall furnish military orders designated as Annual Training (AT) or Active Duty for Training (ADT).

**Responsibilities:**

**Employee Shall:**

- Provide as much prior notice as possible (unless precluded by military necessity). Failure to provide notice may result in denial of protection, including compensation, under federal and state law;
- Furnish written copies of their military orders and/or the name of their military commanding officer, upon return to work, if requested (written or oral orders are considered valid);
- Provide their unit scheduling office with a copy of orders, drill dates, and annual training dates, as soon as they are available.

**Unit Scheduling Office Shall:**

- Allow at least eight hours between the time the employee returns home from weekend military duty and their reporting time for the Department (e.g., an employee arrives home at 1800 hours Sunday evening after completing weekend training. He/she cannot be scheduled for the early morning shift that night at 2300 hours). This does not preclude the employee from returning to work earlier if they desire;
- Not require an employee to find a replacement to cover their absence during the weekend training duty.

### **Employee Benefits While on Military Leave**

#### County Monthly Allowance for Benefits

Activated reservists continue to receive the county monthly allowance towards the purchase of their health, dental, and cafeteria plan benefits, while receiving the first thirty days of full County pay and while receiving the “offset pay” for activations of thirty-one days to unlimited service. If the allowance is insufficient to pay for the benefits to be purchased, the Department of Human Resources (DHR) shall invoice the reservist for the unpaid portion.

#### Medical and Dental Insurance

Reservists and eligible dependents shall continue coverage, although some plans require coordination with military medical coverage. The level of coverage may be changed, due to military activation, but changing from one plan provider to another is prohibited. Employees shall contact DHR Benefits for details.

#### Waive Medical and Dental Insurance

Reservists may waive medical and dental insurance provided by the County and receive eligible taxable cash. The reservist shall provide signed documentation in order to waive coverage.

#### Military Exemption from Taxation

Certain military personnel may be exempt from federal taxation of their military pay. However, the military leave pay provided by the County is civilian pay and may not be subject to those exemptions. Reservists should seek assistance of a professional tax preparer, when completing their annual income returns.

### **Other Benefits While on Military Leave**

#### Uniform Services Employment and Reemployment Rights Act (USERRA) of 1994

This Federal law provides activated military personnel with civilian employment rights, while in active service and upon return to their civilian job. USERRA states that employees returning from active military service shall receive the same vacation leave, sick leave, and holiday privileges, and the same rights and privileges to promotion, continuance in office, employment, reappointment to office, or reemployment that the employee would have enjoyed had he/she not been absent. Incomplete probationary periods shall be completed, prior to reinstatement.

#### State Codes

Just as the USERRA delineates the protections afforded military reserve members at the Federal level, the State of California has similar regulations. The applicable regulations are contained in the *Government Code*

and the *Military and Veterans Codes*. The *Military and Veterans Code* allows the Governor to call up the necessary troops to assist local authorities with firefighting and civil disturbances, etc. It should be noted that the USERRA does not apply to members of the National Guard, if called to State Active Duty (SAD), but state regulations provide essentially the same protections. In the case of an employee ordered to State Active Duty by the Governor, he/she must be granted the leave of absence.

#### Los Angeles County Code

With very few exceptions, the County of Los Angeles has adopted the State of *California Military and Veterans Code* as its own. Section 2.88.030 states that all State standards and regulations are applicable.

#### Retirement

The County shall continue to make employer-contributions to the Los Angeles County Employees Retirement Association (LACERA), while a reservist is on active military service. Employee contributions shall be taken from the employee's offset pay, only if there are sufficient earnings for the monies to be withheld. Retirement service credit is only given if both the County portion and the employee portion are paid. Federal law provides the reservist the opportunity to make-up missed employee-contributions, upon return to work.

#### Deferred Compensation

Employee contributions and the County match to Horizons, savings plan, and the pension savings plans shall continue to be made from the employee's offset pay, as long as there are sufficient earnings. However, the employee contributions will be less than normal, because it is based on the percentage of the offset pay; subsequently, the County match will likely be reduced. Federal law provides, upon return to civilian employment, a reservist to make-up missed/reduced contributions and receive the corresponding match.

#### Vacation Leave, Sick Leave, Holidays

While on active military leave, time shall be accrued as if the reservist had not left County service. At any time during the employee's military leave, he/she has the discretion to use any "100 percent time on the books." A reservist may use accrued vacation leave or holiday time, at any time, to remain on County paid status. Use of accrued sick leave requires the reservist to meet the same eligibility requirements as if in County service; in general, sick leave is available when the employee or dependent is ill and the employee is unable to work.

#### Bereavement Leave for Employees Deployed on Military Leave:

Employees who have been deployed on military leave **are not** eligible for bereavement leave with the following exception:

If, upon return from military leave, the bereavement leave time off request is related to the death of a qualifying family member (the time off shall be taken strictly for the bereavement-related activities, including tending to the deceased's family members' affairs or personal business, or assisting family members with the legal processes, etc.).