

## Summary of Policy

We provide military leave of absence, generally unpaid, to employees who serve in the United States uniformed services, including the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, State Military Reserve, commissioned corps of Public Health Service, and any other category of persons designated by the U.S. President or the State Governor in time of war or emergency.

There is no minimum service required for employees to be eligible for military leave. However, to be eligible for military leave pay, an employee must have a minimum of one year of service.

The CEO is authorized by the Board to revise the Military Leave Policy to include a special provision for extended leave and compensation when there is a military mobilization national and security crisis.

## Historical Perspective

The first military leave policy was written by Human Resources, in 1995, and implemented by the CEO. It included a provision that guaranteed employees their regular pay for the first 30 calendar days of active military duty. And upon completion of military service, employees were reinstated, as required by the Uniformed Services Employment and Reemployment Rights Act. It also included two options for employees whose duty was inactive. The first was for us to make a reasonable attempt to informally adjust the employees' workdays so that they could meet their military and workplace commitments. And the second was for employees to use their "time off with pay."

In contrast, the 2001 policy, which was adopted by the Board, restricts eligibility for military leave pay to employees who have at least one year of agency service. It

provides specific information regarding the position to which a returning employee can be reinstated. It eliminates the first option for employees serving with inactive duty status. And it allows the CEO to include a special provision for military and national security efforts.

In its 2001 policy, the Board extended military leave from 30 to 180 days, with supplemental military pay so that employees are compensated up to their full salary. It also continued to award some benefits during the 180 days of service, subject to certain plan exceptions related to acts of war. Accrual of Time-Off-With-Pay stops after the first 30 days and will be reinstated when the employee returns to regular employment at the rate based on years of service, which includes military leave. And at the end of 180 days, the CEO may consider continuing the military leave provisions, if necessary, up to 360 days.

## Last Board Action

November 29, 2001 – Military Leave

The Board approved on consent calendar the revised Military Leave Policy to include:

- A. a special provision for military mobilization and national security efforts; and
- B. incorporating current provisions from the California Military and Veteran's Code, Section 395 and updates from the Uniformed Services Employment and Reemployment Rights Act.

## Attachment

Policy #6-5 Military Leave

# **MTA PROCEDURE**

**Procedure # HR 6-5**

## **Human Resources**

### **Military Leave**

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#### **POLICY STATEMENT**

The MTA does not discriminate against any employee or prospective employee with regard to hiring, retention, promotion, or other employment benefit by virtue of the individual's past, present, or future application for membership in a uniformed service. It is the policy of the MTA to provide military leave of absence (generally unpaid) to employees who serve in the United States uniformed services including the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, State Military Reserve, commissioned corps of the Public Health Service, and any other category of persons designated by the U.S. President or the State Governor in time of war or emergency. There is no minimum MTA or PTSC service required to be eligible for military leave, however to be eligible for military leave pay, an employee must have a minimum of 1 year of service.

The Chief Executive Officer is authorized by the MTA Board to revise the Military Leave policy to include a special provision for extended leave and compensation when there is a military mobilization and national security crisis.

#### **PURPOSE**

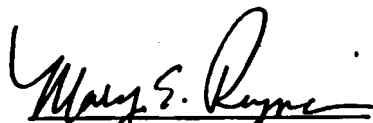
To provide eligible employees with military leave in accordance with state and federal laws which protect the rights of workers who serve in the armed forces.

#### **APPLICATION**

This policy applies to all eligible employees on active duty, on reserve duty or in military training. Generally, employees are entitled to reemployment rights and benefits as long as their total military absences while at the MTA/PTSC do not exceed five years. Employees who work for the MTA/PTSC for only a brief, nonrecurring period of less than one year are not covered.

If a conflict occurs between this policy and a collective bargaining agreement, the collective bargaining agreement shall prevail.

  
EX OFCR Admin: Carolyn Flowers

  
APPROVED: Legal Counsel or N/A

\_\_\_\_\_  
ADPOTED: CEO OR DCEO

# **MTA PROCEDURE**

## **Human Resources**

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## **Procedure # HR 6-5**

### **1.0 PROCEDURES**

Employees are required to provide advance notice of military service to their manager or supervisor, unless military necessity prevents such notice or it is otherwise impossible or unreasonable. A determination of military necessity will be made as prescribed by the Department of Defense regulations. Notice may be orally or in writing, either by the employee or by an appropriate officer of the relevant service branch. (See Attachment 1 for copy of the Request for Military Leave of Absence form.) Failure to provide notice could result in a denial of the protection of the applicable federal or state law.

To be covered by this policy, the cumulative length of an employee's voluntary military leave may not exceed five years, unless the leave is extended under one of the exceptions provided under federal or state law.

#### **1.1 Active Duty**

An employee who enlists, or is called for an active tour of duty for more than one year is separated from the MTA/PTSC. Employees must provide documentation of enlistment or active duty assignment at the time of separation.

#### **Pay During Military Leave**

Military leave is generally unpaid. However, California law requires that an employee who is granted long-term military leave of absence and who has a minimum of one-year service prior to the effective date active duty begins, is entitled to receive his/her regular pay for the first 30 calendar days of active duty within any given fiscal year.

#### **Reemployment**

Upon honorable separation from military service, the employee is granted reemployment rights with no loss of seniority. The length of time an employee spends on military service determines the timing of his/her application for reemployment. The employee must report for work with the appropriate documentation within the guidelines established by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) to be eligible for reemployment.

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## **Human Resources**

### **Military Leave**

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## **Procedure # HR 6-5**

### **1.1.3 Position Entitlement upon Reemployment**

An individual with fewer than 91 days of service must be reemployed promptly in (1) the position that he/she would have attained had he/she been continuously employed, so long as he/she is qualified for the job, or can become qualified after reasonable efforts by management. If the individual is not or cannot reasonably become qualified for that position, he/she must be returned to (2) the position held prior to military leave, provided he/she is still qualified or could become qualified with reasonable efforts from management. If individual is not qualified for his/her former position, all efforts will be made to (3) place him/her in an equivalent position. Only after exhausting these three possibilities may the individual be provided with a job of *lesser* status and pay for which he/she is qualified.

If the individual is absent due to military service for 91 or more days, the reemployment provisions are identical to those above, except that the individual may be offered a different position with *equivalent pay, status, and seniority*, even if he/she qualifies for a job listed in either (1) or (2) above.

### **1.1.4 Service-Related Disability**

The MTA will make reasonable efforts to (1) accommodate individuals with a service-related disability so he/she can *perform the position that he/she would have had without military service interruption*. If this is not possible, the MTA will (2) provide a job of *equivalent seniority, pay, and status* for which the employee is qualified or could become qualified after reasonable efforts by management. If neither (1) nor (2) is possible due to the individual's disability, the MTA will provide *a job as nearly equivalent as possible* to option (2), consistent with the individual's circumstances.

### **1.1.5 Permissible Employer Actions**

Reemployment of an eligible individual is excused if business circumstances have changed so that reemployment would be unreasonable or impossible. For example, no reemployment is required if the individual in question would have been laid off had he or she not been on military leave.

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Retraining and disability accommodation requirements also are excused if they would pose an undue hardship on the MTA. The test is the same as it is under the Americans with Disabilities Act (see Reasonable Accommodation Policy, HR 3-12).

#### **1.1.6 Rights & Benefits for the Returning Employee**

Returning employees are entitled to the seniority and all rights and benefits that they would have attained had they remained continuously employed. Employees in uniformed service will be treated as if on leave on absence during their military service, and they are entitled to participate in any of the benefits available to employees on non-military leaves of absence, paid or unpaid.

For purposes of the pension plan, a re-employed employee will be treated as not having a break in service. In addition, the time spent in military service will be considered MTA/PTSC service for purposes of benefit vesting and accrual. The employee is also entitled to any accrued benefits resulting from employee contributions to a pension plan to the extent that he/she pays contributions. Repayment can be made during a period three times as long as the military service, but no longer than five years.

At the employee's option, group health care coverage similar to COBRA will be provided for up to 18 months after the service begins, or for the period of the military service, whichever is shorter. For periods of service up to 30 days, employees will pay only the employee share, if any, of the cost of such coverage. For longer service, employees will be required to pay no more than 102 percent of the full premium for the coverage.

Employees may choose (but may not be required) to use any accrued vacation time or TOWP to cover their service in the military, rather than be placed on an unpaid leave of absence.

#### **1.2 Reserve Duty**

An employee who is a member of the State Military Reserve is entitled to receive his/her regular pay during the first 30 calendar days of military leave in any given fiscal year to attend active, but not inactive, reserve activities. All employee rights and benefits

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## **Procedure # HR 6-5**

remain in effect during reserve duty, so long as the periods of reserve duty do not exceed a cumulative total of five years.

The employee is required to provide his/her supervisor with a copy of his/her military orders prior to the leave.

### **1.3 Inactive Duty**

Military leave pay will not be granted for inactive reserve duty. However, the employee may request earned vacation pay or TOWP while on inactive duty.

### **1.4 Military Mobilization and National Security Efforts**

During times of national security efforts, the CEO is authorized to extend the number of authorized military leave days beyond the legally mandated minimum of 30 calendar days and to supplement military pay up to the employee's full MTA salary for the period of days granted under this section. Generally, the CEO will conduct a review of other public agencies' responses to a national security crisis and make a determination as to the appropriate extensions of military leave days allowed under MTA policy.

## **RESPONSIBILITIES**

**Human Resources** is responsible for administering this policy.

**Employees** notify their respective supervisors of the anticipated military leave as far in advance as possible.

**Department Heads** review documentation for military leave.

## **DEFINITION OF TERMS**

**Active Reserve Activity** - for purposes of military leave pay, this means the 15-day annual summer camp or more extensive training activities.

**Inactive Reserve Activity** - the usual monthly weekend drills or unit training assemblies.

**Long-term Military Leave of Absence** - a military leave of over six months.

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Service - includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and absence from work for an examination to determine an individual's fitness for any of these types of service.

Short-term Military Leave of Absence - a military leave of six months or less duration.

State Military Reserve - a voluntary organization under the authority and control of the Governor. It is available to assume the duties and functions of the National Guard within the state whenever the National Guard is called into federal service and to respond immediately whenever called in any natural disaster or civil emergency to protect and preserve the lives and property of the citizens of the state.

USERRA - Uniformed Services Employment and Re-employment Rights Act of 1994.

### **FLOW CHART**

Not Applicable

### **REFERENCES**

1. HR 3-12 Reasonable Accommodation
2. HR 3-14 Layoff
3. HR 7-2 Time Off with Pay
4. CA Military and Veteran's Code
5. USERRA of 1994, P.L. 103-353

### **ATTACHMENTS**

1. Request for Military Leave of Absence Form

### **7.0 REVISION HISTORY**

01/01/95	New policy & procedures
11/05/01	Revised Policy

# LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY REQUEST FOR MILITARY LEAVE OF ABSENCE

\_\_\_\_\_ am requesting a Military Leave of Absence beginning  
\_\_\_\_\_, 19\_\_\_\_ to \_\_\_\_\_, 19\_\_\_\_ inclusive.

### REGULATIONS FOR OBTAINING LEAVE

You must have at least one year of District service or a qualifying period of recognized military service. (Qualifying service is defined as full-time active duty for 180 days or more in any branch of the Armed Forces, or a comparable period of service when the Governor has declared a state of military emergency under California Military and Veterans Code.)

You must notify your supervisor as far in advance as possible of an anticipated Military Leave and, when possible, you must schedule the Military Leave in accordance with the workload of your department.

You will not be granted Military Leave with pay for Inactive Duty (weekend drills, appointments for physical exams, etc.). However, the District will make reasonable attempts to allow your attendance at Inactive Duty.

Your failure to submit this form with an officially signed copy of your Orders for Active Duty will result in your salary payment being denied while on Military Leave.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Employee's Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Badge No.

\_\_\_\_\_  
Dept./Div. No.

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Hire Date

\_\_\_\_\_  
Phone No.

Name and address of person who will know my whereabouts during my Leave of Absence:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Phone No.

Approved: \_\_\_\_\_ Department Head

Approved: \_\_\_\_\_ Director of Personnel

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### FOR USE OF TRANSPORTATION AND MAINTENANCE DEPARTMENTS ONLY

TO: Division Manager \_\_\_\_\_

RE: MILITARY LEAVE PAY

You are authorized to pay Military Leave Allowance upon receipt and verification of official orders to this:

FULL-TIME EMPLOYEE

—for 8 hours a day of each working day that (s)he is absent from work while on Military Leave.

PART-TIME EMPLOYEE

—for the average number of hours normally worked per day of each working day that (s)he is absent from work while on Military Leave.

PAID MILITARY LEAVE CANNOT EXCEED 30 CALENDAR DAYS PER FISCAL YEAR (July 1-June 30).

\_\_\_\_\_  
Approval Signature

\_\_\_\_\_  
Date

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- Original — Department/Division
- Copy — Employee
- Copy — Personnel Department
- Copy — Control Accounting