



City of Holyoke Military Leave Policy

I. Policy

The City of Holyoke grants employees a military-service leave in accordance with and otherwise complies with recognizes the Uniformed Services Employment and Reemployment Rights Act [“USERRA”], which protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. In accordance with USERRA, the City does not discriminate against past or present members of the uniformed services, or applicants to the uniformed services.

USERRA does not set forth the number of days that an employer is required to pay in service time. In 1972, the Holyoke City Council accepted the provisions of Massachusetts General Laws, Chapter 33, Section 59 as the law existed on July 1, 1930¹; which provides that city employees while on military reserve for the Commonwealth, the United States Army, or the United States Navy shall be paid for a period not to exceed fifteen (15) days without loss of paid time for vacation or other leaves of absences that other city employees receive.² These fifteen (15) days are categorized as service pay, not vacation time pay or personal time pay. The Act of 1930 is the only statute that the City of Holyoke accepted on the issue of military leave. More specifically, the City of Holyoke has not accepted any of the amendments to Massachusetts General Laws, Chapter 33, Section 59 which occurred after 1930. Notwithstanding and given the age of the statute, the City of Holyoke will provide city employees with a period of no more than twenty-two (22) days of pay, exclusive of vacation and personal time, for military leave, such as active duty, training and reservist leave. No provision of any collective bargaining agreement shall be used to deprive any city employee of any rights under USERRA or the Act of 1930, Chapter 157, including but not limited to, the right to use vacation or personal time accrued during the calendar year during which the employee was serving in the military, the right to be paid for paid holidays, the right to be paid for incentives and bonuses; provided that such incentives and bonuses are paid to other city employees not serving in the military.

¹ See Section 2-47 within Division 1 entitled “Generally”, within Article II entitled “Officers and Employees Generally”, Chapter 2 entitled “Administration” within the Holyoke City Code of Ordinances.

² See the Acts of 1930, Chapter 157.



II. Benefits

Employees on approved military leave shall not lose their job, seniority, vacation leave, personal leave, or opportunities for promotion. All benefits and accruals shall continue during periods of service. Benefits that are not earned or are speculative, such as overtime, are not included within this policy.

III. How benefits will be paid to military reservists

- A. **Service pay:** City employees, upon request, shall be paid no more than twenty-two (22) days per calendar year for time missed due to said employee's service in the military. There shall be no carryover of the service pay into the next calendar year. If the employee uses all of the twenty-two (22) days military service pay during the calendar year, he/she shall receive another twenty-two (22) days at the beginning of the next calendar year. The service pay will be equivalent to the salary that a city employee receives as determined by collective bargaining. The timing of the service pay shall be determined by the length of service. For example, if a city employee will miss five (5) work days due to military service, then the city employee will be paid for five (5) work days consistent with that employee's work schedule. Service pay will be made upon receipt of the city employee's military orders as required by Paragraph 1 of Article IV herein.
- B. **Vacation and personal time pay:** The number of vacation and personal days owed to a city employee shall be determined by collective bargaining. If the city employee requests to use vacation or personal time during his/her military service, regardless of whether it is one (1) day or more than one (1) day, the city shall pay the city employee for the requested time in his/her bi-weekly paycheck; provided that said city employee has accrued sufficient vacation and personal time to comply with his/her request. If the city employee does not use his/her vacation and/or personal time due to his or her service, then the city shall pay said employee all of his/her accrued vacation and personal time by the end of the calendar year.
- C. **Holiday pay:** No city employee shall lose holiday pay due to his/her service. Any holiday pay owed to a city employee must be paid by the end of the calendar year.
- D. **Incentive pay and bonuses:** City employees that receive incentive pay and/or bonus pay by virtue of a collective bargaining agreement shall not lose incentive pay or bonus pay due to his/her military service. All incentive pay and bonus pay shall be paid to the city employee at the end of the fiscal year.



IV. Responsibilities of Employees

1. **Notification** – Employees must provide written notice of upcoming military leave to the Human Resource Department as far in advance as practicable, with a copy of military orders or other appropriate documentation..
2. **Return from Leave** – Employees shall be reinstated to the same position, or a position of like seniority, status, and pay, without loss of accrued benefits or service credit.

V. Complaint Procedure

Any employee who believes their rights under this policy have been violated may file a written complaint with the Human Resource Director. Complaints will be investigated promptly, and corrective action will be taken where appropriate.

ACKNOWLEDGMENT OF RECEIPT OF THE CITY OF HOLYOKE’S MILITARY LEAVE POLICY

I hereby acknowledge that I have received a copy of the City of Holyoke’s Military Leave Policy.

I understand that I am required to abide by the City of Holyoke’s Military Leave Policy and all other policies of the City of Holyoke throughout the time that I am employed by, or otherwise work for, the City of Holyoke.

I agree to read the City of Holyoke’s Military Leave Policy. I agree that I will seek clarification from the Human Resource Director or from the City Solicitor if there is any policy, provision, procedure, or any other term or language in the City of Holyoke’s Military Leave Policy that I do not understand.

Employee Signature

Date