



ADMINISTRATIVE DIRECTIVE

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I. **PURPOSE**

To ensure that City of Tucson policies and practices conform with state and federal law concerning Military Leave including, but not limited to: leave entitlements under Administrative Directive (AD) 2.01-7C, Family and Medical Leave (FML), the Family and Medical Leave Act (FMLA) (29 CFR 825.100 *et. seq.*), and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

II. **POLICY**

Employees who are members of any branch, reserve, or auxiliary of the Armed Forces will receive Military Leave benefits as provided under state and federal law. Coverage and Eligibility for Military Family Leave (MFL) under FMLA will be administered by Human Resources (HR) in accordance with Section VI of the Family and Medical Leave AD 2.01-7C. Department designees must contact HR immediately upon notification that an employee may require MFL.

III. **DEFINITIONS**

- A. **Active Duty** – Service as an active duty member of the United States Armed Forces or a call or order to active duty (or notification of an impending call/order to active duty) under any provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.
- B. **Child** – For the purposes of MFL, a child, regardless of age, includes a biological, adopted or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis. This definition does not include “in-law”.
- C. **Covered Servicemember** – A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty; and veterans who were discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.
- D. **Extended Military Leave** – Continuous Military Leave in excess of 30 calendar days.
- E. **Federal Fiscal Year** – October 1 – September 30.
- F. **Human Resources** – For purposes of this AD, Human Resources (HR) refers to the City Human Resources Department, not an individual department’s HR section or division. City department HR sections must coordinate with City HR for all matters involving Military Leave. City Court employees must contact City Court HR for all matters involving Military Leave.



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- G. Leave Year** – The calendar year (January 1 – December 31).
- H. Next of Kin** – For the purposes of MFL, the nearest blood relative other than the Covered Servicemember's spouse, parent, or child, in order of priority or as designated by the Covered Servicemember in accordance with the FMLA.
- I. Parent** – For purposes of MFL, a Covered Servicemember's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the Covered Servicemember. This definition of parent does not include "in-law."
- J. Qualifying Exigency** – Includes the following:
1. Short-notice deployments (seven (7) or fewer calendar days' notice);
 2. Attending military events such as ceremonies and briefings;
 3. Arranging for childcare/school on account of active duty or call to duty;
 4. Addressing financial and/or legal arrangements related to the call to duty;
 5. Attending counseling sessions related to the call to duty;
 6. Periods of up to 15 calendar days' leave to spend time with a Covered Servicemember who is on short-term, temporary rest/recuperation leave during deployments;
 7. Attending post-deployment activities such as arrival ceremonies and briefings;
 8. To care for a Covered Servicemember's parent who is incapable of self-care, when the care is necessitated by the member's covered active duty, and;
 9. Any other event the employee and employer agree is a qualifying exigency.
- K. Serious Injury or Illness** – An injury or illness incurred by a Covered Servicemember in the line of duty, or which existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty, that may render the Covered Servicemember medically unfit to perform the duties of the Covered Servicemember's office, grade, rank, or rating and requires undergoing medical treatment, recuperations, or therapy.
- L. Service in Uniformed Services** – As defined by USERRA, the performance of duty on a voluntary or involuntary basis in a uniformed service, including, but not limited to: active duty, active duty for training, initial active duty for training and inactive duty training, full-time National Guard duty, absence from work for examinations to



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determine a person's fitness for any of the above types of duty; funeral honors duty and duty performed as disaster response.

IV. PAID MILITARY LEAVE – NOT TO EXCEED 30 CALENDAR DAYS IN ANY TWO (2) CONSECUTIVE FEDERAL FISCAL YEARS

- A.** Employees of the City of Tucson who are members of any branch, reserve or auxiliary of the Armed Forces, and are under orders for short tour training, attending camps, maneuvers, formations or drills, will be given Military Leave as provided by state law and/or the Tucson Code. This leave is not to exceed 30 days in any two (2) consecutive federal fiscal years (Oct. 1 – Sept. 30), except as otherwise provided by the Tucson Code for commissioned Fire personnel (who receive up to 30 12-hour days in any single federal fiscal year). Up to the 30-day limit, such employees will receive full City salary for normally scheduled working hours that fall within the periods of training duty unless otherwise provided by the Tucson Code. Employees will not be charged Military Leave for days on which the employee was not otherwise scheduled for work.
- B.** Employees who work an Alternate Work Schedule (anything other than eight (8) hours per day) will be charged one (1) day of Military Leave for each day during which they were scheduled to work. Firefighters assigned to suppression will be charged two (2) days of Military Leave for each 24-hour shift they are scheduled to work.

V. MILITARY LEAVE EXCEEDING 30 CALENDAR DAYS IN ANY TWO (2) CONSECUTIVE FEDERAL FISCAL YEARS

When tours for temporary military training duty exceed the Military Leave allowance provided by state law and/or the Tucson Code:

- A.** Employees, including commissioned personnel, whose classifications are exempt from overtime may elect:
 - 1.** To receive their weekly City salary offset by the amount of military pay received for absences of less than a full workweek,
 - 2.** To use accrued Vacation Leave for the period of leave,
 - 3.** To take full-day increments of Military Leave No Pay (MLNP), or
 - 4.** To combine accrued Vacation Leave and MLNP.



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- B. Employees, including commissioned personnel, whose classifications are eligible for overtime, may elect to use:
1. Accrued Vacation Leave;
 2. Earned Compensatory Time, and/or;
 3. MLNP.

VI. REQUESTS FOR MILITARY LEAVE AND REQUIRED DOCUMENTATION

Any employee, including commissioned personnel, requesting Extended Military Leave must complete the **mandatory** Extended Military Leave Pre-Deployment and Return Checklists, included as appendices to this AD. These Checklists outline all matters and responsibilities relating to their employment with the City of Tucson, before and during Military Leave, and upon their return to work. The employee and the department HR liaison should refer to the checklists for detailed processes and responsibilities. All City employees (including commissioned personnel) must provide the completed and signed mandatory Extended Military Leave Pre-Deployment and Return Checklists to their department HR liaison for inclusion in their permanent personnel file.

Request for Military Leave of absence without pay will be approved for all permanent and probationary employees in accordance with state and/or federal law. All requests for Military Leave will be forwarded to HR to coordinate necessary benefits and leave entitlements.

An employee under orders for military duty will provide documentation of the orders signed by a military authority to their department director or department HR liaison prior to the commencement of Military Leave, unless such notice is precluded by military necessity. This policy is subject to exception upon approval by the HR Department. The employee's department director or department HR liaison will forward such orders to the City's HR Department for retention in the employee's record by the end of the pay period in which the leave commences.

VII. REINSTATEMENT AND REEMPLOYMENT UPON RETURN FROM SERVICE

A. Employee Responsibility for Reinstatement:

1. **Service of 1 to 30 days:** Notify your department's HR liaison and report to position no later than next scheduled day, after return home and eight (8) hours of rest.
2. **Service of 31 to 180 days:** Notify the HR Department and report to position within 14 days of release from duty.



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3. **Service of more than 180 days:** Notify the HR Department and report to position within 90 days of release from duty.

B. Employee Rights for Reinstatement/Reemployment:

1. Service of 1 to 90 days (in order of priority):

- a. Prompt reemployment in the job the employee would have held had they remained continuously employed, as long as the employee is qualified or can become qualified after reasonable efforts by the City.
- b. Prompt reemployment in the job in which the employee was employed on the date of commencement of service, only if they are not qualified to perform the duties of the position in subsection a. above, after reasonable efforts by the City to qualify the employee.
- c. If neither a. nor b. above can be met (even after reasonable employer efforts) the employee must be reemployed in a position that is the nearest approximation to the positions described above (in that order), which the employee is qualified to perform, with full seniority.

2. Service of 180 or more days (in order of priority):

- a. Prompt reemployment in the job the employee would have held had they remained continuously employed, or a position of like seniority status and pay, as long as the employee is qualified for the job, or can become qualified after reasonable efforts by the City.
- b. Prompt reemployment in the job in which the employee was employed on the date of the commencement of service, or a position of like seniority status and pay, the duties of which the employee is qualified to perform, only if they are not qualified to perform the duties of a position referred to in section a. immediately above.
- c. If neither a. nor b. above can be met (even after reasonable employer efforts) the employee must be reemployed in a position that is the nearest approximation to the positions described above (in that order), which the employee is qualified to perform, with full seniority.

VIII. MILITARY FAMILY LEAVE UNDER FAMILY AND MEDICAL LEAVE ACT

In accordance with the Family and Medical Leave Act (FMLA), as amended by the National Defense Authorization Acts, MFL provides eligible employees leave for up to 26 weeks in a single 12-month period. Utilization of MFL runs concurrent with all other leaves (AD 2.01-7D,



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Medical Leave and Parental Leave). MFL due to Qualifying Exigencies may be taken on an intermittent basis.

- A.** Military Family Leave can be used for the following reasons:
- 1.** **Qualifying Exigency** - An eligible employee may be entitled to take up to 12 weeks of leave to address certain Qualifying Exigencies, as defined in section III of this AD, arising out of a Covered Servicemember's active duty or call to active duty in support of contingency operations.
 - 2.** **Military Caregiver** - An eligible employee who is the spouse, child, parent, or next of kin of a Covered Servicemember recovering from a serious illness or injury sustained in the line of duty or at any time during the five (5) years preceding the date of treatment; recuperation or therapy from a serious illness or injury sustained in the line of duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. Military Caregiver Leave is calculated based on the same leave year.
- B.** HR may require that an employee's request for MFL be supported by an appropriate certification. However, HR is not permitted to request recertification and/or second opinions for certification of a Covered Servicemember's serious injury or illness or of a qualifying exigency.
- C.** MFL will be administered consistent with related provisions of the FML AD 2.01-7C.
- D.** Unused MFL cannot be carried forward to another Leave Year and cannot exceed the maximum allowable under federal law.

IX. EFFECT ON LEAVE ACCRUAL AND OTHER BENEFITS

- A.** An employee on **paid** Military Leave (described in Section IV above), regardless of pay status, is entitled to accrue Sick Leave and Vacation Leave at the same accrual rate of an employee on FML. If an employee's accrual rate changes during deployment, the new accrual rate is applied. If applicable, accruals will be added to the employee's leave balance(s) upon the employee's return to active employment status with the City.
- B.** Employees' anniversary dates will not be affected by the use of Military Leave No Pay (MLNP).
- C.** Employees on MLNP whose Sick Leave or Vacation Leave accrual rate would change during deployment will have the new accrual rate applied upon the employee's return to active employment status.
- D.** Employees, including commissioned personnel, on MLNP or supplemental pay status under Tucson Code § 10-48, do NOT receive:



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- Holiday Pay,
- Allowances (other than Medical Opt-Out),
- Premium Pay,
- Certification Pay or Incentive Pay,
- accrual of Sick Leave, Vacation Leave or Compensatory Time,
- Floating/Birthday Holiday, or
- Bi-Lingual or Second Language Pay.

- D. Employee pension benefits are governed according to the Tucson Supplemental Retirement System (TSRS) or the Public Safety Personnel Retirement System (PSPRS), depending upon the system of which the employee is a member.
- E. For information about continuation of benefits while on Military Leave, please refer to Section VII of the Employee Leaves AD 2.01-7.

Appendices

Extended Military Leave Pre-Deployment Checklist
 Extended Military Leave Return Checklist

References (for a complete list of references for the entire AD Leaves series, see AD 2.01-7)

Tucson Code
 Family and Medical Leave Act
 2.01-7 Employee Leaves
 2.01-7C Family and Medical Leave

Review Responsibility and Frequency

The Human Resources Director will review this directive as needed.
 Last review date: July 19, 2013.

Authorized



 City Manager



 Date

Extended Military Leave Pre-Deployment Checklist (Deployments of 31 Days or More)

Please print legibly

Employee # _____ Name (Last, First) _____

Address _____

City, State, Zip _____ Date of Birth _____

Phone Hm# _____ Wk# _____ Cell# _____

E-mail Address _____

Initial and date each item listed below indicating you have read and understand it. If you have questions or need additional information contact phone numbers are provided on page 2.

General Information Regarding Military Leave Policies:

- _____ I understand that, subject to certain restrictions, federal law protects my job with the City for a period of up to five years of military duty (exclusive of annual reserve training and certain other periods).
- _____ I notified my Supervisor and/or Department Management of my anticipated departure date, length of service and/or date of release from active duty.
- _____ I have arranged the turn-in of all City property, equipment, uniforms, keys, etc. to my supervisor.
- _____ I will give Human Resources a copy of my military orders within 14 days of receipt.
- _____ I will provide Human Resources with a copy of my Leave Earnings Statement within 45 days of receipt.
- _____ I will provide a copy of orders as needed on an intermittent/yearly basis, whichever is applicable.

Paid Military Leave:

This leave is not to exceed thirty (30) days every two federal fiscal years (which begins on October 1). Employees shall not be charged Military Leave for days which the employee was not otherwise scheduled for work.

- _____ I understand the availability and use of paid military leave.
- _____ I understand that once I have exhausted paid military leave, I could incur leave without pay.

Handling of Accrued Leave Amounts:

The following options apply regarding leave use and **I should advise my department HR/Payroll Section** that I would like to:

- _____ Use accrued vacation time for the period of leave, or
- _____ Take full day increments of leave without pay, or
- _____ Combine accrued vacation time and leave without pay.

Update My Information:

- _____ It is my obligation to review my personal and emergency contact information on file with Human Resources to ensure it is up to date and that my Beneficiary Information is current for Insurance options, pension and deferred compensation accounts.
- _____ It is my responsibility to inform Human Resources of a change of address for W-2 purposes or other purposes, either in writing or through a Power of Attorney.

_____ I understand that I have the right to provide the Human Resources Office a Power of Attorney assigning the right to make benefit changes during open enrollment, in the case of qualifying life events and all other matters concerning my employment. Absent a Power of Attorney, only I can make changes regarding City matters.

Insurance Benefits:

_____ It is my obligation to meet with a Benefits Office staff member prior to beginning military leave to be advised of my insurance benefit options to make my initial insurance elections.

_____ I am hereby advised that I may make changes annually during Open Enrollment and in accordance with qualifying life events as rules and procedures outlined in the Insurance Handbook posted at www.tucsonaz.gov/enroll.

_____ I understand I may drop insurance elections at the end of any month by completing paperwork/following procedures required by the Benefits Office. Reinstatement of insurance will be in accordance with USERRA laws and City of Tucson rules.

Maintaining My Retirement:

_____ I understand that my accumulated pension contributions and service remain in place during military leave and cannot be withdrawn during this period;

_____ I understand that I will not be adding money into my retirement or receiving credited service while on Military Leave.

_____ I will NOT automatically receive pension credit during the period of military leave – unless I am a Public Safety employee (commissioned police officer or firefighter) who meets the requirements in Arizona Revised Statutes for service relating to a Presidential Call-up.

_____ Pension credit may be obtained upon return from military leave, subject to payment of contributions in accordance with Federal, State and local provisions.

Reemployment Rights:

Upon completion of active duty, I understand that in order to assert my reemployment rights, I must:

_____ Notify the Human Resources Department of my intent to return to my position as soon as possible but no later than provided below:

_____ Activated less than 31 days – I must report to my position on the next scheduled day after return home and 8 hours of rest, or

_____ Activated 31 to 180 days – not later than 14 days after release from duty, or

_____ Activated more than 180 days – not later than 90 days following release from duty.

_____ Provide Human Resources a copy of my discharge documents. (DD-214, endorsed orders, letter from unit commander, or other proof of satisfactory completion of service) within 30 days of discharge or my intent to return to work.

_____ Obtain and complete the Extended Military Leave Return Checklist.

This form is a checklist of the major steps in the military leave process. It is not intended to be a complete statement of all rights or obligations of the employer or the employee. There may be exceptions, limitations, and details applicable to some steps outlined here. To obtain more details, see the USERRA poster in your workplace or contact Human Resources.

If you have questions, please use the contact numbers below:

Human Resources	791-4241	TSRS Retirement Plans	791-4598
Insurance Benefits	791-4597	PSPRS Retirement Plans	791-4282

By signing below, I acknowledge that I received the Military Leave Administrative Directive (2.01-7G) and contact phone numbers to obtain more information.

Employee Signature

Date

Department Human Resources Representative:

Printed Name

Signature

Date

Department Director or Designee:

Printed Name

Signature

Date

Human Resources Director or Designee

Printed Name

Signature

Date

Extended Military Leave Return Checklist

Please print legibly

Employee # _____ Name (Last, First) _____

Address _____

City, State, Zip _____ Date of Birth _____

Phone Hm# _____ Wk# _____ Cell# _____

E-mail Address _____

Initial each item listed below indicating you have read and understand it. If you have questions or need additional information contact phone numbers are provided on page 2.

I understand that in order to assert my reemployment rights, I must comply with certain federal requirements regarding my return to work. It is my obligation to notify my department within certain specified time limits in order to return to work (included on the Extended Military Leave Pre-Deployment Checklist and repeated below).

Upon Completion of Active Duty, I Will:

- _____ Notify the Human Resources Department of my intent to return to my position as soon as possible but no later than provided below. I must report to my position on:
- _____ Activated less than 31 days – the next scheduled day after return home and 8 hours of rest, or
 - _____ Activated 31 to 180 days – not later than 14 days after release from duty, or
 - _____ Activated more than 180 days – not later than 90 days following release from duty.

Discharge Documents:

- _____ I must provide Human Resources a copy of my discharge documents. (DD-214, endorsed orders, letter from unit commander, or other proof of satisfactory completion of service) within 30 days of discharge or my intent to return to work.
- _____ I understand that in order to assert my reemployment rights that my discharge from military service must be an honorable discharge. It cannot be dishonorable, due to bad conduct, absent without authority, or for circumstances “other than honorable” as defined by the branch of the service.

Retraining or Certifications:

- _____ I understand that I must satisfactorily complete any re-training or refresher training required to return to my previous position, including updating or maintaining any licenses or certificates, otherwise I will be reemployed in a different position for which I am qualified.
- _____ I understand that my personnel file will be reviewed to assure any required licenses or certificates are still current and that a reasonable effort will be made to schedule me for re-training or refresher training in order to return me to my previous position.
- _____ If I became disabled while on military duty, the City must make reasonable effort to accommodate the disability in reemployment.

Restoration of Benefits:

_____ I understand I must come to the Benefits Office to complete insurance enrollment paperwork within 31 days of the date I return from Military Leave. Otherwise, my current insurance elections will remain in force through the remainder of the current plan year. All rules governing insurance benefits, including when and how I may make changes due to open enrollment or qualifying life events, apply; and the rules are posted in the Insurance Handbook at www.tucsonaz.gov/enroll.

_____ It is my responsibility to review my paycheck to ensure all appropriate deductions are occurring. This includes insurance premiums, pension contribution deductions and payroll taxes.

_____ Credit for period of military service will be granted in accordance with Federal, State and Local codes. Generally, upon an honorable discharge a member may receive credit in the retirement system by paying the employee contributions that would have occurred had the member not been on leave and the employer will pay the corresponding employer contributions due for that time. *An exception to this general rule is military leave due to Presidential Call-up for Public Safety employees.

_____ It is my responsibility to reestablish voluntary benefits, like deferred compensation and Colonial Insurance, upon my return. "I understand that I must contact Colonial within 31 days of the date of my return from Military Leave."

This form is intended as a convenient checklist of the major steps in returning from military leave. It is not intended to be a complete statement of all rights or obligations of the employee or the employer. There are additional exceptions, limitations, and details applicable to some steps outlined herein. To obtain more details, see the USERRA poster in your workplace or contact Human Resources.

If you have questions, please use the contact numbers below:

Human Resources	791-4241	TSRS Retirement Plans	791-4598
Insurance Benefits	791-4597	PSPRS Retirement Plans	791-4282

By signing below, I acknowledge that I received the Military Leave Administrative Directive (2.01-7G) and contact phone numbers to obtain more information.

Employee Signature	Date
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Department Human Resources Representative:

Printed Name	Signature	Date
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Department Director or designee:

Printed Name	Signature	Date
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