

City of Lowell
Active Military Leave-Guidelines for Employees

In accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), Title 38 USC Chapter 43, Part III, employees called for or volunteering for active military duty, shall be protected in the following:

Discrimination:

The City shall not discriminate against an employee due to their military service.

Compensation:

Employees called for or volunteering for active military duty are not entitled to continued compensation but may use, at their option, accrued vacation, compensatory or personal leave benefits while on leave.

Health & Welfare Benefits {MGL Ch. 32B, S.91 adopted Nov.21.2001}

An employee will be allowed to continue in the group health plan and remit their employee contribution rate directly to the City of Lowell. Failure to pay premium on a timely basis will result in cancellation. If a policy is cancelled due to non-payment, the employee will have the right to re-enroll during open enrollment, within thirty days of returning from active military leave, or within thirty days of a qualifying event.

Seniority rights:

Reemployed service members are entitled to the seniority and all rights and benefits based on seniority that they would have attained with reasonable certainty had they remained continuously employed.

Benefits not based on seniority:

Employees on military leave shall be treated as if they are on an unpaid leave of absence and will be eligible to accrue or participate in benefits available to the same extent as employees on nonmilitary unpaid leaves of absence.

Reemployment & Reinstatement rights:

Employees volunteering for active military leave, retain their reemployment rights for a period of five years. This five year period does not include: 1.) service required beyond five years to complete an initial period of obligated service; 2.) service from which a person, through no fault of their own, is unable to obtain a release within the five year period; 3.) service under an involuntary order

Time limit for returning to work:

Service of one (1) to thirty (30) days: employee is to return to work the first regularly scheduled work day or eight (8) hours after the end of the military duty, plus reasonable community time from military duty station to home;

Service of thirty-one (31) to one-hundred and eighty days (180) days: employees shall submit a request to be reinstated no later than fourteen (14) days after completion of military leave;

Service of one-hundred and eighty-one days (181) or more: employee shall submit a reinstatement request no later than ninety (90) days of completion of military duty.

For employees disabled during military leave, reinstatement may be extended for up to two years for persons who are convalescing due to a disability incurred or aggravated during military service. Documentation to substantiate the disability must be supplied to the department head.

Employees returning from military leave, must be reinstated promptly to their position previously held prior to them commencing leave unless the employee is disabled and cannot perform the essential duties of their position.

If two or more persons are entitled to reemployment in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

The employer will provide refresher training and other training necessary to update a returning employee's skills in situation where the employee is no longer qualified due to technological advances. If reasonable efforts fail to qualify a person for the first or second reemployment position available, the person must be placed in a position of equivalent or nearest approximation and pay that the person is qualified to perform subject to MGL Chapter 31.

Reemployment is excused if there was a reduction-in-force that the employee on leave would have been separated from employment.

Disqualifying reasons for Reinstatement:

Employees separated from military service under the following conditions lose their right to reinstatement: 1.) Separation from service with a dishonorable or bad conduct discharge; 2.) separation from the service under other than honorable conditions; 3.) dismissal of a commissioned officer in certain situations involving a court martial or by order of the President in time of war; 4.) dropping an individual from the rolls when the individual has been absent without authority for more than three months or who is imprisoned by a civilian court.

Notification to Employer:

Employees are required to provide as much advance notice as possible of the need for military leave and forward a copy of their official orders to their department head.

Retirement:

An employee reemployed after military service, shall be treated as not having incurred a break in service with the City for credible service. The City shall be obligated to fund any obligation on behalf of the employee.