

## **County of Monterey Military Leave Policy**

It is the policy of the County of Monterey to comply with the Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA), and applicable California Military and Veteran's Code pertaining to military leave. This policy supersedes previous County of Monterey Military Leave policies and any other practice of the County of Monterey related to military leave rights and benefits. This policy shall become effective upon adoption and continue until formally repealed by the Board of Supervisors.

As the laws change, or as interpretations of the laws change, military leave benefits for County of Monterey employees may change accordingly. No attempt is made in this policy to cover all possible situations and circumstances that may arise when an employee is ordered to active duty. Therefore, as military leave situations arise, employees should consult with the County of Monterey Military and Veterans Affairs office for current and complete details regarding their military leave rights as a County of Monterey employee and should make sure the County of Monterey Central Benefits Office is contacted regarding any continuation of benefits.

Upon receiving an assignment for military service, employees should promptly provide notice to their supervisors and County of Monterey Military and Veterans Affairs office prior to going on military duty, unless precluded by military necessity.

### **Military Reserve/National Guard**

Normally, a reservist voluntarily signs up for part-time duty, sacrificing two days a month for training plus 15 days a year for an annual tour, a schedule that has led some observers to refer to them as "weekend warriors." Not only are they compensated for their part-time military duty, they also receive free training and educational opportunities, retirement plans, and medical benefits while on duty, as well as special allowances, including commissary discounts reserved for military personnel. Most reservists and guard members work full time, electing to use their annual time off to fulfill their tour requirements. Only if the president designates reservists/guard members necessary in times of war or emergency are they expected to assume full-time military duties. The county of Monterey shall continue its compliance with employment and leave policies under state and federal law for reservist/guard duty.

### **Involuntarily Called to Active Duty**

Monterey County has considered the implications of a salary and benefits continuance policy and has determined that the public and employee interests are served by establishing such a policy for employees involuntarily called to active duty during this time. The policy for salary and benefits continuance policy is as follows:

- Employee must be involuntarily called to active duty in the United States Armed Services.
- Employee must submit appropriate documentation such as military orders or a military demand letter to the County Office of Military and Veterans Affairs.
- Employee must have worked for the County for at least one year.
- Salary and benefits continuance shall be up to 12 months.

The salary "continuance" shall mean full pay in addition to any pay received by the employee from the military for the first 30 days. Thereafter salary "continuance" shall be the difference between military and civilian pay, before taxes. The salary continuance supplement shall be adjusted by any augmenting earned income from any other source(s).

Benefits "continuance" shall mean payment of premiums (not to exceed contractual benefits allowance) for health and dental coverage (if elected) for employee and family members for up to 12 months beyond the mandated 30 days. Thereafter, benefit continuance is subject to the provisions of federal law covering self-paid insurance coverage continuation (COBRA). Vacation, sick leave, administrative or discretionary leave accruals and retirement service credit shall be adjusted upon the employee's return in accordance with the law.

Salary and benefits continuation shall be provided in accordance with the following schedule:

<b><u>Length of Service</u></b>	<b><u>Salary and benefits Continuation</u></b>
One year or more of County employment	12 months
At least 9 months but less than 12 months	90 calendar days
At least 6 months but less than 9 months	60 calendar days
Less than 6 months	30 calendar days

### **Military Leave Procedures**

The procedures for County of Monterey employees involuntarily called to active duty to participate in an "Anti-Terrorist Campaign or Peacekeeping Efforts" shall be as follows:

1. Employees requesting military leave of absence per the duty listed above shall complete Part I of the Military Leave of Absence form (Attachment A); attach their military orders and pay statements to the form and forward the packet to the County's Office of Military and Veterans Affairs for verification and approval.
2. The Military and Veterans Affairs office shall verify military orders and pay; complete Part II of the Military Leave of Absence form; forward the Military Leave of Absence form and attachments to the employee's Department Head.
3. The Department Head will:
  - a. Determine the employee's length of County of Monterey employment, and the length of salary and benefit continuation to which the employee is entitled; review employee leave and pay records to determine if the employee has received 30 days of military salary continuation during the current fiscal year; determine the employee's current rate of pay to ensure the appropriate amount of supplemental salary continuation.
  - b. Complete Part III of the Military Leave of Absence form and a County Leave of Absence form and forward them to Central Benefits for review.
  - c. Central Benefits shall review all documents for completion and will separate and forward copies of the forms per the distribution requirements.

### **Job Protection for Reservists/Guard Members**

Since reservists and guard members are at the mercy of their country's need, certain rights safeguard their full-time professional lives. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, outlines the protections afforded to reservists called into active duty. Under USERRA, it is unlawful for an employer to deny

initial employment, reemployment, promotion, or any benefit of employment to a person who is obligated to perform in a uniformed service.

If a reservist employed by a civilian employer is activated by order of the federal government, that person is required to notify the employer, orally or in writing. Valid orders can come in many forms, including written or oral orders issued by a military authority, and therefore employers must accept oral notification that an employee has been activated. An employer does not have a "right of refusal" for military leave of absence, except in extreme cases. Also, employees aren't responsible for finding a replacement, or altering the work schedule - that's the employer's responsibility.

Certain rights safeguard are afforded reservists as job protection. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), outlines the protections afforded to reservists/guard members called into active duty. It is the policy of the County of Monterey to comply with USERRA by providing lawful initial employment, reemployment, promotion, or any other County benefit of employment to a person who is obligated to perform in a uniformed service.

The County of Monterey shall provide reemployment rights under USERRA to all reservists returning from active duty, but may fill positions with temporary or contract workers for the duration of the original employees' service. The County of Monterey shall notify temporary workers when reservists/guard members are slated to return, and keep the positions open for the returning employees. Reservists and guard members must return to their jobs within the prescribed period for return to work under the provisions of USERRA.

Returning service members shall be entitled to employment as follows:

- Guaranteed reemployment in the job that they would have attained had they not been absent for military service, with the same seniority, status, and pay, as well as other rights and benefits determined by seniority.
- Necessary training for returning veterans to refresh or upgrade their skills.
- Reasonable accommodation must be made for returning employees who have become disabled during their service. If the County of Monterey is unable to make reasonable accommodation within the old job, the employee may be entitled to another position for which he or she is qualified or could become qualified. Disabled veterans have two years to return to their jobs at the conclusion of their service.

#### **Policy Administration**

This policy shall be administered by the County of Monterey Office of Military and Veterans Affairs. Any questions regarding the administration shall be directed to such Office. The County of Monterey may supplement benefits under this policy for periods of national crisis, specific military operations or war. Any changes, amendments or modifications of benefits under this policy are subject to County of Monterey Board of Supervisor's approval.

Military Leave Form

*In addition to 30 days regular pay that is provided to employees called to active duty, supplemental salary and benefits continuation is available to employees called to active duty as a result of the Anti-Terrorist Campaign and Peace Keeping Efforts. Based on length of service with the County, qualified employees shall receive payment of their normal gross pay minus the amount of their gross military pay (total allowances) according to the schedule below.*

<u>Length of Service</u>	<u>*Salary and Benefits Continuation</u>
One year or more	12 Months
At least 9 months but less than 12	90 Calendar days
At least 6 months but less than 9	60 Calendar days
Less than 6 months	30 Calendar days

\*Payment in addition to those provided by California Code 389 et seq.

**PART I:** To be completed by employee requesting leave

I, \_\_\_\_\_, employee number \_\_\_\_\_, request leave from my employment under the Military and Veterans Code as I have been called to participate in the:

Anti-terrorism Campaign and Peacekeeping Efforts (Noble Eagle)

I understand that I must submit military orders and military pay statements (L.E.S.) to the County's Office of Military and Veteran Affairs for verification and approval of benefits, if so entitled, under this policy.

Employee signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PART II:**

To be completed by the County Office of Military and Veteran Affairs then forwarded, with all attachments, to the employee's Department Head:

	YES	NO
	(mark appropriate box)	
Military orders verified	<input type="checkbox"/>	<input type="checkbox"/>
Copy of military orders is attached	<input type="checkbox"/>	<input type="checkbox"/>
Military pay statement verified	<input type="checkbox"/>	<input type="checkbox"/>
Employee will receive base pay of \$ _____ per month in military compensation beginning _____		
Copy of military pay statement is attached	<input type="checkbox"/>	<input type="checkbox"/>
Employee is qualified to receive benefits	<input type="checkbox"/>	<input type="checkbox"/>

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone: \_\_\_\_\_

**PART III:**

To be completed by the requesting employee's Department Head and forwarded to Risk Management as an attachment to a completed Leave of Absence worksheet.

Our employee, \_\_\_\_\_, employee number \_\_\_\_\_ meets the (please print)

qualifications for receipt of supplemental benefits as noted below:

1. Paid leave of absence, up to 30 days, from \_\_\_\_\_ to \_\_\_\_\_.
2. Extended leave of absence, beyond the initial 30 days, from \_\_\_\_\_ to \_\_\_\_\_.
3. County-paid supplemental compensation in the amount of \$ \_\_\_\_\_ per month beginning \_\_\_\_\_.
4. County-paid supplemental compensation to cease as of \_\_\_\_\_.

Department Head signature: \_\_\_\_\_ Date: \_\_\_\_\_

Department: \_\_\_\_\_ Daytime phone: \_\_\_\_\_

Distribution:                      White – Auditor                      Pink – Department                      Goldenrod – Employee