

Policy
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City of Vermilion

City of Vermilion Local Government Manual



Lactation Breaks

608.1 PURPOSE AND SCOPE

Federal

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child.

608.2 POLICY

Federal MODIFIED

It is the policy of the City to provide, in compliance with the Fair Labor Standards Act (FLSA), reasonable break time and appropriate facilities to accommodate any nonexempt employee desiring to express breast milk for a nursing child for up to one year after the child's birth.

608.3 LACTATION BREAK TIME

Federal MODIFIED

A rest period should be permitted each time the employee has the need to express breast milk. In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Lactation breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

An employee who uses break time to pump breast milk shall be compensated in the same way that other employees are compensated for break time. Any time exceeding regularly scheduled and paid break time will be unpaid.

Employees desiring to take a lactation break shall notify a supervisor prior to taking such a break..

608.4 PRIVATE LOCATION

Federal

The City will provide employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from coworkers and the public (29 USC § 218d).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

608.5 STORAGE OF EXPRESSED MILK

Federal

Any employee storing expressed milk in any authorized refrigerated area shall clearly label it as such and shall remove it when the employee's workday ends.

610**Overtime Compensation****610.1 PURPOSE AND SCOPE**

This policy establishes guidelines and procedures regarding overtime for employees, in conformance with the Fair Labor Standards Act (FLSA).

610.2 POLICY

The City will compensate nonexempt employees who work authorized overtime either by payment of wages or by the accrual of compensatory time. Employees who are salary exempt from FLSA are not compensated for overtime worked.

610.3 COMPENSATION

All overtime work and overtime pay by employees of the City must be authorized by the head of the department in which the employee is employed.

For all purposes, hereinafter specified, "overtime pay" shall be paid on an hourly basis at a rate of time and one-half.

- (a) In the Police Division only, for purposes of this Policy, all work by full-time employees within the Division in any regular weekly pay period, i.e. 7:00 a.m. Saturday through 7:00 a.m. of the following Saturday, in excess of forty hours per week, shall be paid for at the rate of time and one half. Sick leave, personal leave, holidays, bereavement days, and authorized vacation days shall count toward hours in excess of forty per regular one-week pay period. Police personnel shall not receive per diem overtime pay except as it accumulates in computing overtime hours in excess of forty hours as herein provided.

Water and Wastewater Treatment Plant operators shall be assigned a schedule of regular working shifts by the Utilities Manager according to two optional work schedules which the Utilities Manager is hereby authorized and directed to establish and implement. The first schedule shall be that of regular eight-hour days for which overtime shall be paid according to paragraph c of this section. The second optional schedule shall consist of regular working days of twelve hours each with overtime being calculated for hours worked in excess of twelve hours per day or in excess of eighty hours per established fourteen-day pay periods. Sick leave, personal leave, holidays, bereavement days, and authorized vacation days shall count towards hours in excess of eighty per regular two-week pay period. (c) For all other non-administrative and non-clerical employees of the City, all work by such employees in any one calendar week in excess of eight hours per day or forty hours per week shall be paid at the overtime rate of pay. Such overtime hours shall be paid either on a per diem or per calendar week basis, whichever is of greater benefit to the employee. However, no duplication of overtime or weekly overtime shall be paid, but not a combination thereof.

610.4 REQUESTS FOR OVERTIME COMPENSATION**610.4.1 EMPLOYEE RESPONSIBILITIES**

Generally, no employee is authorized to work overtime without the prior approval of a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable

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during the overtime shift and in no case later than the end of the shift in which the overtime is worked. Nonexempt employees shall:

- (a) Obtain supervisory approval, verbal or written.
- (b) Record the actual time worked in an overtime status using the city-approved form or method. Informal notations on reports, logs, or other forms not approved for overtime recording are not acceptable.
- (c) Submit the request for overtime compensation pursuant to city payroll procedures.

610.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

- (a) Prior to authorizing an employee to work overtime, evaluate the need for the overtime.
 - 1. Supervisors should not authorize any request to work overtime if the overtime would not be an appropriate use of city resources.
- (b) Upon receipt of a request for overtime compensation, confirm that the overtime was authorized and then verify the actual time worked.
 - 1. Supervisors identifying any unauthorized overtime or discrepancy shall initiate an internal investigation.
- (c) After verifying and approving the overtime amount, promptly forward the request for compensation to the employee's city director for final approval.
 - 1. After the head of the city has authorized compensation, the request shall be submitted to the Mayor or the authorized designee as soon as practicable.

Supervisors may not authorize or approve their own overtime.

610.5 VARIATION IN TIME REPORTED

When two or more employees are assigned to the same activity and the amount of time for which overtime compensation is requested varies among the employees, the Mayor, authorized designee, or other approving supervisor may require each employee to include the reason for the variation on the overtime compensation request.

610.6 REQUESTING USE OF COMPENSATORY TIME

Employees who have accrued compensatory time shall be allowed to use that time for time off within a reasonable period after making a request, if the request does not unduly disrupt city operations. Requests to use compensatory time will be submitted to the employee's supervisor at least 24 hours in advance of its intended use. Supervisors may make exceptions in unusual or extraordinary circumstances.

Supervisors shall not unreasonably deny employee requests to use compensatory time.

Temporary Modified-Duty Assignments

612.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, city rules, or applicable employment agreements. For example, nothing in this policy affects the obligation of the City to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

612.2 POLICY

Subject to operational and business considerations, the City may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the City with a productive employee during the temporary period.

612.3 GENERAL CONSIDERATIONS

Employees having disabilities covered under the Americans with Disabilities Act (ADA) or state law such as the Ohio Civil Rights Acts (Ohio Revised Code Chapter 4112) shall be treated equally, without regard to any preference for a work-related injury. No position should be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational and business needs of the City. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational and business needs and the employee's ability to perform in a modified-duty assignment.

Temporary modified-duty assignments should generally not exceed a cumulative total of 1,040 hours in any one-year period.

Employees who refuse a temporary modified-duty assignment offer are permitted to use available approved leave, if eligible.

612.4 PROCESS

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Employees seeking a temporary modified-duty assignment should submit a written request to their immediate supervisors or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids, or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

Supervisors will make a recommendation to the Mayor or the authorized designee regarding temporary modified-duty assignments that may be available based on the needs of the City and the limitations of the employee.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the supervisor, with notice to the Mayor or the authorized designee.

612.5 ACCOUNTABILITY

Written notification of assignments, work schedules, and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate city operations and the employee's medical appointments, as mutually agreed upon by the employee and the employee's supervisor.

612.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty include but are not limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Mayor or the authorized designee that contains a status update and anticipated date of return to full duty when a temporary modified duty assignment extends beyond 60 days.

612.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor should monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors include but are not limited to:

- (a) Periodically apprising the Mayor or the authorized designee of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Mayor or the authorized designee and ensuring that the required documentation facilitating the employee's return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

612.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The City may require a fitness-for-duty examination prior to returning an employee to full-duty status.

612.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated in accordance with the Pregnant Workers Fairness Protection Act. A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

If notified by an employee or the employee's representative regarding a limitation related to pregnancy, childbirth, or related medical conditions, the City should make reasonable efforts to provide an accommodation for the employee in accordance with federal law and any applicable state law.

Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under state law.

612.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the Pregnant Workers Fairness Act.

612.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

612.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training, and qualifications appropriate to both their regular and temporary duties, provided that the certification, training, or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training, or qualifications.

641**Military Leave****641.1 PURPOSE AND SCOPE**

This policy provides general guidance regarding leave to perform military service as a member of the Reserves or National Guard, or for active duty in the U.S. Armed Forces as provided in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 USC § 4301 et seq.).

This policy does not address every situation or circumstance that may arise when an employee is performing military service or ordered to active duty. As military leave situations arise, supervisors should consult with the Human Resources Department or legal counsel to obtain specific guidance regarding military leave rights.

641.2 POLICY

The City supports employees who may be called or who volunteer to serve in the military. The City will comply with USERRA and state and local laws relating to military leave.

641.3 MILITARY LEAVE

Generally, employees on military leave are entitled to the same rights and benefits that are provided to employees having similar seniority, status, and pay who are on furlough or leave of absence (38 USC § 4316).

641.3.1 LENGTH OF LEAVE

Employees are entitled to a military leave of absence for up to a maximum of five years. Military leave is available for both voluntary and mandatory service (38 USC § 4303; 38 USC § 4312).

There are exceptions to the five-year cumulative total, including inactive duty training (drills), annual training, involuntary recall, or retention in support of war, national emergency, certain operational missions, or training or retraining requirements (38 USC § 4312).

641.4 PROCEDURES AND RESPONSIBILITIES

Employees who require military leave shall provide as much advance written or verbal notice of the pending service as reasonably possible (38 USC § 4312).

Additionally, the employee should:

- (a) Provide copies of official orders or other official documentation, if available.
- (b) Select the benefit options desired during absence, if applicable.
- (c) Retain copies of all submitted documents.

641.5 COORDINATION WITH CONTRACTS, PRACTICES, AND OTHER RULES

Wherever USERRA has more generous protections and benefits than state or local law, any applicable employment agreement, or local policy or practice, the City will apply the more beneficial right or benefit (38 USC § 4302).

641.6 LEAVE ACCRUALS

Employees are not required to use accrued leave while on military leave. However, employees may choose to use accrued annual leave or earned compensatory time, at their discretion (38 USC § 4316).

Employees will not accrue sick days or paid time-off days during any period of military leave without pay. However, upon return, military leave time will be included in determining leave accruals. For example, if vacation accrual increases from two weeks to three weeks upon completion of five years of service, then a person who works for two years, serves two years on active duty, and then returns, would be entitled to three weeks of vacation one year after reemployment.

641.7 HEALTH CARE BENEFITS

Employees on military leave may elect to purchase continuing health care coverage for a period of time that is the lesser of:

- (a) The 24-month period beginning on the first day of the employee's absence for military leave.
- (b) The period beginning on the first day of the employee's absence for military leave and ending on the date that they fail to return from service or apply for reemployment.

If the duration of an employee's military service is less than 31 days, the employee may purchase continuing health care coverage under the city's health plan for no more than the regular employee share. If the military service is 31 days or more, the City will charge the employee for no more than 102% of the full premium of the health care plan (38 USC § 4317).

641.8 RETURN FROM DUTY

Employees returning from a military leave of absence must report to work as follows (38 USC § 4312; 20 CFR 1002.118):

- (a) For periods of service less than 31 days, employees must report back to work no later than the beginning of the first shift that begins on the first full day that follows the end of the employee's service period, plus a reasonable time to travel to the employee's residence, plus eight hours. If reporting within this period is impossible or unreasonable through no fault of the employee, the employee must return as soon as possible after expiration of the eight-hour period.
- (b) For periods of service of more than 30 days but less than 181 days, employees must apply for reemployment verbally or in writing no later than 14 days after completing service, or, if impossible or unreasonable to do so through no fault of the employee, no later than the next first full calendar day when it is possible to do so.
- (c) For periods of service of more than 180 days, employees must apply for reemployment verbally or in writing no later than 90 days after completion of service.

Employees who are recovering from an illness or injury incurred in or aggravated during military service must report to the City or apply for reemployment as provided in this policy at the end of the period necessary to recover from such illness or injury. The recovery period may not exceed two years, except when circumstances beyond the employee's control exist.

An employee who fails to report or apply for reemployment in a timely manner will be subject to the city's rules of conduct and established policies covering absence from scheduled work.

641.9 REEMPLOYMENT RIGHTS

An employee returning from a temporary military duty leave of absence is generally entitled to reinstatement to the position and benefits they would have attained if not absent for military duty or, in some cases, a comparable job (38 USC § 4312).

641.9.1 FORMER POSITION

An employee returning from regular active military leave is entitled to reinstatement in the position that they would have attained had the employee not taken leave. If the leave exceeded 90 days, the employee is also entitled to a position of like seniority, status, and pay (38 USC § 4313).

If an employee returning from military leave is not able to perform the essential duties of the position the employee would have attained, the City will make reasonable efforts to help the employee become qualified (20 CFR 1002.198). If the employee remains unable to perform the essential duties of the position after the city's reasonable efforts, the employee is entitled to their previously held position at the time of departure or, in the case the leave exceeded 90 days, a position of like seniority, status, and pay. Where an employee remains unqualified for both of these positions after reasonable efforts by the City, the employee is entitled to the nearest approximation to these positions (38 USC § 4313).

When a returning employee cannot become qualified because of a disability incurred in or aggravated during uniformed service, the City, after making reasonable accommodations, must find a position of equivalent seniority, status, and pay for which the employee is qualified, or the nearest equivalent (38 USC § 4313; 20 CFR 1002.198).

641.9.2 COMPENSATION AND BENEFITS Upon return from regular active military duty, an employee is entitled to seniority and seniority based rights and benefits, including but not limited to:

- (a) Receiving credit for the time spent in uniformed service under honorable conditions for purposes of seniority, retirement, promotion, and merit salary increases (20 CFR 1002.210).
- (b) Receiving credit for time spent on military leave for purposes of calculating eligibility for leave under the Family and Medical Leave Act (20 CFR 1002.210).
- (c) Returning to the level in the salary range that they would have attained had the employee not left on military leave (20 CFR 1002.236).
- (d) Receiving the same contribution to retirement benefits upon reemployment that the City would have contributed had they not taken leave (20 CFR 1002.261).
- (e) Being treated as not having a break in service for purposes of participation, vesting, and accrual of pension benefits (38 USC § 4316; 38 USC § 4318).
- (f) Reenrolling in city health benefits without any waiting period.
- (g) Restoring benefits that were elected by the employee and their dependents at the time military service began, as well as to any other benefits that began during the leave for which the employee would reasonably have become eligible.

641.9.3 EMPLOYEE REEMPLOYMENT RESPONSIBILITIES

An employee returning from regular active military leave is entitled to reinstatement rights only if the employee (38 USC § 4312):

(a) Has given advance written or verbal notice of such service, unless precluded by military necessity.

(b) Has served in the uniformed service for no more than five years cumulatively while employed at the City, except as provided in 38 USC § 4312(c).

(c) Has been issued a discharge under honorable conditions.

(d) Reports to the City or applies for reemployment in a timely manner as provided in this policy.

1. In the case that the military leave exceeds 30 days, submits documentation showing (20 CFR 1002.121; 20 CFR 1002.123):

(a) The application for reemployment is timely.

(b) The employee has not exceeded the cumulative five-year limit of service in the uniformed services, except as provided in 38 USC § 4312(c).

(c) The employee's separation or dismissal from service was not disqualifying.

641.9.4 CITY REEMPLOYMENT RESPONSIBILITIES

The City shall promptly reinstate employees entitled to reinstatement but no later than 14 days after a request for reinstatement. In the case of unusual circumstances, the City shall reinstate employees as soon as practicable (20 CFR 1002.181).

The City is not required to reemploy a person after military leave if any of the following conditions exist (38 USC § 4312):

(a) The city's circumstances have so changed as to make such reemployment impossible or unreasonable.

(b) Such reemployment would impose an undue hardship upon the City.

(c) The person held a nonrecurrent job for a brief period of time and had no reasonable expectation that such employment would continue.

Supervisors should consult with the Human Resources Department or legal counsel before determining whether any of these conditions exist.

641.10 RETENTION

An employee who is reinstated after returning from military leave may not be discharged, except for cause (38 USC § 4316; 20 CFR 1002.247):

(a) For 180 days after the date of reemployment if the most recent period of military service was more than 30 days and less than 181 days.

(b) For one year after the date of reemployment if the most recent period of military service was more than 180 days.

641.11 DISCRIMINATION AND RETALIATION PROHIBITED

Discrimination or retaliation against any employee for participation in military service is prohibited, whether the employee volunteers or is ordered to active military service (38 USC § 4311).

641.12 STATE AND LOCAL MILITARY LEAVE CONSIDERATIONS

Eligible employees may be entitled to additional benefits related to military leave under state and local requirements (e.g., compensation, drills, temporary military leave for training) including but not limited to R.C. 5923.05.

The City will comply with the requirements of any applicable state or local laws that provide for military leave benefits.

Employees should consult with their supervisor and the Human Resources Department for additional information regarding applicable leave benefits.