

Uniformed Services Leave

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NON-DISCRIMINATION AND ANTI-RETALIATION

King County is committed to protecting the job rights of employees on uniformed services leave. In accordance with federal and state law, and County Code, it is the County's policy that no employee or prospective employee will be subjected to discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, promotion, or other benefit of employment on the basis of such membership.

No person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under applicable law or this policy. If any employee believes that he or she has been subjected to discrimination in violation of this policy, the employee should immediately contact the Human Resources Manager responsible for the employee's agency, or the central Department of Human Resources, if the Human Resources Manager is unavailable or unable to be of assistance.

ADMINISTRATION

This Policy sets forth guidelines and provides a process for King County agencies to administer uniformed services leave for King County executive branch employees. The policy is intended to ensure King County's compliance with federal and state law, and King County Code.

To ensure consistency and timely delivery of all entitled benefits to employees called to uniformed service, each agency has designated a Military Leave Coordinator. A listing of the current coordinators is located on the back page of the King County *Uniformed Services Leave Form*.

APPLICABILITY AND ELIGIBILITY

This policy applies to regular career service, provisional, appointed, term-limited temporary, short-term temporary employees, and paid interns in the Executive Branch of King County government.

Employees eligible for uniformed services leave include those enlisted in, but not limited to: the Armed Forces; the Washington National Guard; the United States Air National Guard; the United States Army National Guard; the United States Coast Guard and its reserve; the United States Public Health Service Commissioned Corps and its reserve; and as an appointee when the National Disaster Medical System is activated.

Family members of a service member or veteran may be eligible to take leave under the Federal Family and Medical Leave Act, Washington Paid Family & Medical Leave, the Washington State Military Family Leave Act and the King County Family Medical Leave Ordinance to care for a service member recovering from a serious health condition incurred during military service and/or take care of issues related to an eligible service member's deployment.

UNIFORMED SERVICES LEAVE

To request uniformed services leave, eligible employees must provide their agency Military Leave Coordinator and supervisor with reasonable verbal or written notice prior to commencement of the uniformed services leave. A copy of active duty orders, training/drill schedules, and other written documentation is not required to be approved for uniformed services leave; however, it is required for certain pay and benefits.

NOTICE

The employee must provide advance notice to the employer of the need for leave unless advanced notice is prevented by military necessity or is otherwise impossible or unreasonable under the circumstances. Notice may be either verbal or written. [KCC 3.12.260(B); 20 CFR §1002.86]

PAY AND BENEFITS

King County recognizes that being called to uniformed service may place a financial burden on employees. The financial burden may include reduced income and medical benefits for the employee and their dependents while on uniformed services leave. In an effort to minimize the financial burden and support employees called up to uniformed service, employees eligible for comprehensive leave benefits are granted additional benefits, as set forth in KCC 3.12.260 and 3.12.262.

Orders or training/drill schedules and a completed copy of the King County *Uniformed Services Leave Form* must be provided by the employee to their department human resources representative prior to the commencement of uniformed services leave in order to receive any of the following pay and/or benefits:

- 21-days of paid uniformed services leave per military fiscal year, per RCW 38.40.060
- Differential pay while on active duty per KCC 3.12.260
- Medical, dental, vision, and life insurance benefits for a uniformed services leave of absence beyond 30-calendar days, per KCC 3.12.262
- Continued accrual of vacation and sick leave while on uniformed services leave, per KCC 3.12.262

Pursuant to RCW 38.40.060, an eligible employee is entitled to up to 21-days of paid uniformed services leave per military fiscal year (October 1 to September 30). An eligible employee is entitled to this paid leave for active duty, and active and inactive training/drills duty. The 21-days of paid uniformed services leave is in addition to any vacation or sick leave to which the employee might be entitled. [RCW 38.40.060(2)]

KCC 3.12.260(C) provides that an employee who is eligible for benefits under K.C.C. 3.12.040 and has exhausted benefits pursuant to RCW 38.40.060, and who is called to active duty in the United States Uniformed Services shall receive his or her regular base rate of county pay less the amount of the employee's regular base rate of uniformed service pay. This pay differential shall continue until either the conclusion of the employee's service in the United States Uniformed Services, or the employee exhausts their reemployment rights under the Uniform Services Employment and Reemployment Rights Act of 1994.

As allowed by KCC 3.12.262(A), an employee who is eligible for benefits under K.C.C. 3.12.040 who is called to uniformed service in the United States Uniformed Services shall continue to receive medical, dental, vision, and life insurance benefits, and accrue vacation and sick leave.

Receipt of medical, dental, vision, and life insurance benefits and vacation and sick leave accruals shall continue until the lesser of the conclusion of the employee's service in the United States Uniformed Services, or the employee exhausts their reemployment rights under the Uniform Services Employment and Reemployment Rights Act of 1994.

QUESTIONS/COMMENTS

Refer questions or comments to your agency's Military Leave Coordinator, the Department of Human Resources, or the Benefits Payroll and Retirement Operations Section.

In the event that any provision of this Human Resources Policy conflicts with an applicable provision of a collective bargaining agreement or binding past practices thereunder, the latter shall prevail. In the event that either this policy or any collective bargaining agreement or binding past practice conflict with Federal and State law and the latter shall always prevail.

The effect of the provisions of this Human Resources Policy confers no new privilege or right of appeal for any King County employee. This Human Resources Policy does not constitute an express or implied contract. It provides general guidance that cannot form the basis of a private right of action.

OTHER RESOURCES

- United States Department of Labor "A Guide to the Uniformed Services Employment and Reemployment Rights Act"
<http://www.dol.gov/vets/programs/userra/USERRA%20Pocket%20Guide.html>
- Washington State Military Leave for Public Employees RCW 38.40.060
<http://apps.leg.wa.gov/rcw/default.aspx?cite=38.40.060>
- Military Family Leave Act (MFLA) Chapter 49.77 RCW
<http://apps.leg.wa.gov/rcw/default.aspx?cite=49.77>
- King County Uniformed Services Leave: Payment Election Form
<https://www.kingcounty.gov/~media/employees/benefits/documents/forms/uniformed-services-leave-form.ashx?la=en>

This HR Policy revises and supersedes "*Uniformed Services Leave*" HR Bulletin 2016-0003.