

# County of Santa Clara

Office of the County Executive

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**October 24, 2008**

**To:** Agency /Department Heads  
Service Center Staff and Fiscal Officers

**From:** Peter Kutras, Jr., County Executive

A handwritten signature in black ink, appearing to read "Peter Kutras, Jr.", is written over the "From:" line.

**Subject: Military Leave Policy**

This memorandum serves as an update to the Military Leave Policy, which replaces the last communication from the County Executive's Office on this policy dated January 19, 1981.

It is important that managers and supervisors familiarize themselves with this policy and be reminded that it is their responsibility to ensure that approval for employees who are authorized to take military leave, whether paid or unpaid, adheres to the policy. Managers and supervisors are encouraged to check with their Departmental Service Centers or with ESA-Employee Benefits if there is any question whether or not your employee qualifies for time off related to military duties, military leave pay or salary augmentation.

## **Military Leave Policy**

The County of Santa Clara complies with provisions of the State Military and Veterans Code, as well as the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA). In addition, the County of Santa Clara Ordinance Code, Chapter VI, Section A25-680 relating to Military Leave of Absence provides employees with specific rights to salary augmentation and benefits in direct connection with an armed conflict.

## **TEMPORARY MILITARY LEAVE**

### **Time Off From Work**

Any employee who is a member of the reserve corps of the Armed Forces of the United States, or of the National Guard or the Naval Militia is entitled to temporary military leave of absence of up to 180 calendar days while engaged in ordered military duty for purposes of active or inactive duty training, encampment, naval cruises, special exercises, or like activity, including travel time going to and returning from duty.

Inactive Military Duty

Any employee engaged in inactive military duty, such as weekend drills or other non-ordered inactive duty training, is not entitled to County-paid military leave of absence. The employee may, however, charge their leave to his or her vacation, personal leave or compensatory time off, or choose to take leave without pay in order to participate in inactive military duty required by their military reserve or National Guard commitment.

**MILITARY LEAVE - OTHER THAN TEMPORARY**

Time off from Work

An employee is entitled to a leave of absence from County employment if ordered to active military duty or volunteers for military service for a period not to exceed 5 years, subject to some exceptions.

**PAY AND BENEFITS DURING TEMPORARY AND OTHER-THAN-TEMPORARY MILITARY LEAVE**

An employee is entitled to receive his or her full County salary during the first 30 calendar days of each approved period of temporary military leave for ordered active military duty, up to a maximum of 30 days pay in any one fiscal year. In addition, the employee shall be entitled to receive the same benefits while on paid temporary military leave, and has the same rights to seniority and be restored to former position and status upon returning from duty had he or she not been on leave. The exceptions to benefit coverage are basic and supplemental life insurance, accidental death insurance, and long-term disability insurance. Such insurance coverage is discontinued on the first day of the military leave as these policies do not cover individuals while serving in the military.

In order to be eligible for pay and benefits during temporary and other-than-temporary military leave, the employee must have at least one year of service with the County immediately prior to the day the military leave is to begin. All service of the employee in recognized military service shall be counted toward the one-year County service requirement.

The exception is members of the National Guard who are engaged in the performance of ordered military duty shall be entitled to military leave without regard to the length of County service. The employee shall be entitled to receive his or her County salary and benefits for up to the first 30 calendar days, provided that such duty is performed during a Governor proclaimed state of extreme emergency or other active duty as described in the Military and Veterans Code.

Salary Augmentation & Benefits

Any employee who has been called to active military duty in direct connection with an armed conflict, after exhausting salary or compensation to which he or she is entitled to under the California Military and Veterans Code, will be entitled to salary augmentation of up to 100% of his or her regular County base salary in combination with his or her military pay for the duration of the military leave.

Health insurance benefits will continue to apply for spouse, domestic partner and dependents while the employee is receiving salary augmentation. Premium co-pay will continue depending on the health plan selected. Life insurance, accidental death insurance and long term disability insurance will not be applicable during this period.

Any employee receiving salary augmentation will continue to accrue the full vacation, STO, PTO, and sick leave, as well as county days of service credit for the duration of the leave as if he or she was not on military leave.

Retirement

Under PERS rules, salary augmentation paid while on active military duty is not considered reportable compensation. Therefore, contributions (employee and employer) to PERS will discontinue and PERS service credit will stop to accrue for any employee while on salary augmentation. However, immediately upon return from leave, the employee may apply directly to PERS to have the service credit posted to his or her account. If approved by PERS, there will be no cost to the employee.

c: Board of Supervisors