

## Rule 2-50

### Leaves (Military and Other Leaves)

§§:

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#### § 2-50-010 General Leaves

- A. Consistent with the needs of the County, and unless otherwise specified in a collective bargaining agreement, leaves of absence without pay for a limited period not to exceed thirty (30) days may be requested and may be granted by the department director or supervisor for any reasonable purpose. Such leaves may be renewed or extended for any period up to one (1) year.
- B. An employee who fails to return to work within five (5) days after the expiration of a leave of absence will be considered to have resigned, unless the employee, prior to the expiration of the leave of absence, has made application for and has been granted an extension of leave. An employee who reports for work within five days after the expiration of a leave of absence will be reinstated in the last held position at the prevailing pay rate, unless the position has been eliminated.

#### § 2-50-020 Military Training Leave

- A. In compliance with the provisions of ORS 408.290, and unless otherwise specified in a collective bargaining agreement, an employee who has served the county for six (6) months or more preceding an application for military leave, may apply for a leave of absence with pay for any period of annual active duty for training as a member of the National Guard, National Guard Reserve, any reserve component of the Armed Forces of the United States, or the National Disaster Medical System (NDMS) or any reserve component of the United States Public Health Service for and during deployments in response to public health emergencies. Such leave will be with pay and without loss of benefits and will not exceed fifteen (15) calendar days or eleven (11) work days in any training year. As used in this section, “training year” means the federal fiscal year for any particular unit of the National Guard or applicable reserve component.
- B. Leave of absence without pay will be granted for any military duty, unless the employee requests the use of accrued paid leave, such as vacation, saved holiday, or compensatory time. As used in this subsection, “military duty” means any written or

verbal military orders for weekend drills, annual active military training/duty, inactive duty training, or full-time National Guard duty in the military reserve, National Guard, National Guard Reserve, Armed Forces, Army National Guard, Air National Guard, or the National Disaster Medical System (NDMS) or any Reserve component of the Armed Forces of the United States, Coast Guard, the Commissioned Corps of the Public Health Service, for and during deployments in response to public health emergencies, and any other category of persons designated by the President in time of war or national emergency.

C. Additional leave is provided for leave related to military service in MCPR § 2-60.

### **§ 2-50-025 Military Leave Donation Program**

A. The Military Leave Donation Program provides a means for employees to assist other employees on military leave without pay whose rate of pay while on active duty is less than what the employee earns in base wages as a county employee. “Base wages” does not include premium, lead or other differential pay tied to special shift or work assignments. Donated vacation leave or compensatory time is used to bridge the difference between the employee’s base wages in their county position and the amount of pay the employee receives while on military leave. Recipients of donated vacation leave and/or compensatory time may not receive more compensation under this program than they would have earned in base wages had they not been on military leave.

B. Eligibility to Receive Donated Leave: In order to be eligible to participate in the Military Leave Donation Program as a recipient, employees must:

1. Be a regular status county employee on leave without pay to perform active military duty, whether voluntarily or involuntarily ordered. This program does not apply to routine training or other similar activities of the National Guard or the military reserves;
2. Have diminished wages due to their active military service, and submit written documentation of the rate of pay the employee will receive for the anticipated duration of the military leave, including any differentials or special pay; and
3. Submit written documentation of the anticipated date of release from active duty. Donated leave may not be used to compensate the employee between the time they are released from active duty until the time they report back to work at the county.

C. Limit on Amount of Donated Leave: The maximum amount of donated vacation leave or compensatory time an eligible employee may receive is the equivalent of the difference between what the employee earns from the county as base wages (not including any differentials, lead or premium pay resulting from special shift or work assignments) and

what the employee earns while on military leave referred to in (B)(2) above, for a period not to exceed six (6) calendar months.

#### D. Donations

1. Any employee who is eligible to accrue vacation leave may donate leave in accordance with the following provisions:
  - a. Donors may not donate time that would be forfeited due to leave accrual limits contained in these rules or any collective bargaining agreements.
  - b. Donations must be made in increments of whole hours.
  - c. Donors must sign a declaration that their donation is voluntary and is intended as a gift; and has been made without coercion, compensation or for other consideration.
  - d. Donations will be withdrawn from the donors' leave banks as needed, up to the amount donated. If leave donations exceed the amount needed, unused leave will remain in the donor's leave bank. Except as provided in (1)(a) above, donations are irrevocable.
2. Calculation of Value of Leave and Payment to Recipient
  - a. The dollar value of donated leave hours will be calculated by multiplying the donor's hourly rate times the number of hours donated.
  - b. The dollar value of donated leave will be divided evenly among all eligible employees.
  - c. During the six month eligibility period and so long as donated leave hours are available, recipients will receive a salary payment on their regularly scheduled pay day for an amount up to the difference between their military gross pay and their regular base gross pay as a county employee, less any normal payroll deductions and withholdings. In the event that leave donations are insufficient to provide adequate compensation to employees, the county may elect to forego deductions for medical and dental insurance premiums while employees are on military leave. All payments made under this rule will be treated as wages and will be reported as such to appropriate taxing authorities.
  - d. Payments made under this program will not be considered as time worked for purposes of leave accrual, holiday pay, or seniority calculations.

#### E. Administration of Program

1. The county or employing department may post and/or send email to county or department employees notifying them of the names of eligible employees.
2. Employees are prohibited from threatening or coercing other employees concerning any aspect of this rule, including but not limited to pressuring another employee to donate time or refuse to accept donated time.
3. This program is not subject to the grievance and arbitration section of any collective bargaining agreement nor is it subject to any appeal procedure provided under the Multnomah County Personnel Rules, the County Code or the County Charter. The county retains the right to modify, change or discontinue this program at any time.
4. Central HR is authorized to establish and/or modify procedures necessary to implement and monitor this program to carry out the intent of the Board.

#### **§ 2-50-030 Peace Corps Leave**

Leaves of absence for at least two (2) years will be granted to all regular employees who serve in the Peace Corps as volunteers.

#### **§ 2-50-040 Vacancies**

Temporary or regular appointments may be used to fill positions vacated by leave of absence. Positions anticipated to be vacant for more than six months will be filled by regular appointment, unless the Director determines that circumstances warrant a temporary appointment.

#### **§ 2-50-050 Judicial Leave**

##### A. Jury Duty

1. An employee shall be granted leave with full pay in lieu of jury fees on any scheduled day of work he or she is required to report for jury duty, if upon receipt the employee submits jury fees or evidence of waiver of jury fees to Payroll. Employees may retain reimbursement provided for by statute for mileage and other expenses incurred as a result of jury service.
2. Except during an emergency or due to operational requirements, the county will not require employees to report to work after completing a full day on jury duty. Any employee who is excused or dismissed from jury duty before the end of the day will report back to work if practical. Employees will not be allowed to flex their work schedule, in order to receive compensation for jury duty on a normally scheduled day off, unless specified in labor agreement.

##### B. Subpoenas

1. Time spent serving as a witness in a work related legal proceeding will be treated as time worked for pay purposes, provided the time served occurs during regularly scheduled hours, the employee is subpoenaed to testify, and the employee submits witness fees to Central Payroll upon receipt. These same provisions also apply to Merit System Council hearings.
2. Under no circumstances will employees be paid for time spent in a judicial proceeding or hearing in which they or their union or association is the plaintiff or defendant, unless they are being defended and indemnified by the county for conduct occurring during the course of employment.

**§ 2-50-060 Leave for Religious Observance or Practice**

- A. Upon approval by the appointing authority, an employee shall be granted time off to engage in a religious observance or practice. The employee must use vacation leave, saved holiday time or compensatory time for this leave.
- B. Such leave shall not be granted if the activity creates significant difficulty or expense for the county or if the activities have more than a temporary or tangential impact on the employee's ability to perform the essential functions of the employee's job.