

**Rules and Regulations of the
Municipal Civil Service Commission**

Rule: XV – LEAVES OF ABSENCE	Page 1 of 4
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RULE XV

LEAVES OF ABSENCE

A. Leaves of Absence With Pay

Leaves of absence with pay are provided in the applicable ordinances and resolutions of City Council and shall be accomplished in accordance with the same.

B. Leaves of Absence Without Pay

1. General Leaves. An appointing authority may grant a general leave of absence without pay to an employee for a period not to exceed one year.

a. Upon the expiration of the leave of absence, the employee shall be restored to the position which the employee occupied at the time the leave was granted, or to a similar position in the same class. If necessary to the official conduct of business of the department, as determined by the appointing authority, an employee on leave may be notified in writing to return to work prior to the expiration of the leave.

b. Failure of an employee to report for duty promptly on the first work day following the expiration of the leave or failure of an employee to report to work fourteen days after notification to do so, shall be just cause for the appointing authority to terminate the employee.

2. Leave to accept other classified employment. An employee who is non-probationary in a class and desires a leave from such class to accept a probationary appointment to another class may do so with the approval of the appointing authorities involved. Such leave shall remain in effect until the employee returns to the original class, obtains non-probationary status in the new class, or the leave is rescinded by the appointing authority by written notification. Such notification shall be given to the employee at least fourteen days prior to the effective date of the rescission.

3. Leaves to accept unclassified City employment. Whenever a permanent employee accepts an appointment to an unclassified position, the employee shall be considered on a leave of absence from the classified position, however, an employee may choose to waive the leave of absence by providing the Commission notice of the same in writing. In those cases where the unclassified appointment is with a different appointing authority, the leave shall be in effect for one year. For all other cases, such a leave shall be in effect for one year, until rescinded by the appointing authority as provided in subsection 2 above, or until the employee terminates from the unclassified position, whichever is longer.

Rules and Regulations of the Municipal Civil Service Commission

Rule: XV – LEAVES OF ABSENCE	Page 2 of 4
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C. Procedure for Granting Leaves

1. A request for leave without pay shall be submitted in writing on forms prescribed by the Commission, signed by the employee and the appointing authority.

2. An appointing authority, in making an appointment to fill a position vacated by a regular classified employee who has been granted a leave of absence, shall notify the new employee in writing that the position reverts to the previous incumbent upon the previous incumbent's return from leave. A copy of such notification shall be forwarded to the Commission and made a part of such employee's file.

3. Failure to Report After a Leave. Failure to report after a leave has expired or has been disapproved, revoked, or rescinded by the appointing authority or the Commission, may be considered absence without leave and cause for discharge as defined in Section E of this Rule.

4. No provisional employee's leave may remain in effect upon the establishment of an applicable eligible list.

D. Military Leave

1. Notwithstanding any other provisions of these Rules, employees in the classified services shall be granted a leave of absence to serve in the Armed Forces of the United States of America or any branch thereof. An employee requesting military leave shall submit copies of the orders, a training schedule, or an affidavit as verification that military duty is required. Military leave of absence shall be governed by the following principles:

- a. For a period of up to five (5) cumulative years, no employee in the classified service shall lose rank, grade or seniority enjoyed at the time the employee began service in the uniformed services.
- b. An employee who entered the Armed Forces and subsequently received an honorable discharge therefrom, who established the fact that the employee's physical and mental condition has not been impaired to the extent of rendering the employee unable to perform the essential functions of the previous position, shall be returned to the position, or to a similar position of equal rank and grade (with the position) held immediately prior to enlistment, appointment or induction into the Armed Forces. Nothing contained herein shall obligate the City to pay any compensation to an employee while serving in the Armed Forces. The returning employee must request restoration in writing to the previously held position within ninety days of receiving the honorable discharge from the Armed Forces or the position will be declared vacant. The deadline for reinstatement may be

Rules and Regulations of the Municipal Civil Service Commission

Rule: XV – LEAVES OF ABSENCE	Page 3 of 4
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extended for up to two (2) years for persons who are convalescing due to an illness or injury incurred or aggravated during military service.

- c. An individual selected from a certification list and having completed the probationary period who is serving in a position vacated temporarily due to the previous incumbent being in the Armed Forces, shall be determined to have been given a permanent appointment if the returning employee does not return to work within the prescribed time.
- d. The term "Armed Forces" of the United States, as used in this section, shall be deemed to include such services as designated by the Congress of the United States.
- e. An employee in the classified service transferred or advanced to a position by reason of a vacancy caused by an employee serving in the Armed Forces of the United States shall be returned to the position held before such transfer or advancement or to a position of equal rank or grade, upon the return of the employee from the Armed Forces.
- f. In any case where two or more persons are entitled to be restored to a position and left the same position in order to enter the Armed Forces, the person who left such position first shall have the prior right to be restored thereto, without prejudice to the reinstatement rights of the other person or persons to be restored.
- g. Where service in the Armed Forces is a notice of induction or call to active duty, leave shall be granted for the duration of the order.
- h. Where service in the Armed Forces results from voluntary enlistment or appointment, leave shall be granted in accordance with the provisions of the Uniformed Service Employment and Reemployment Act (USERRA) 38 U.S.C. 43.

E. Absence Without Leave

1. Absence from duty without prior approval for any length of time may be grounds for disciplinary action.

2. Absence without leave for five consecutive workdays may be deemed a voluntary resignation and abandonment of the position. The department shall report such absence promptly to the Commission.

Rules and Regulations of the Municipal Civil Service Commission

Rule: XV – LEAVES OF ABSENCE	Page 4 of 4
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3. This Rule does not require an appointing authority to initiate disciplinary action against the employee who is absent without leave for five consecutive work days, if it is determined that such action is unwarranted, nor does such Rule preclude disciplinary action against an employee who is absent without leave for less than five consecutive work days if such absence is of sufficient seriousness.

Amended as of: October 28, 2019
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