	<p><b>City of Albany</b>  <b>Administrative Policy</b>  Benefits &amp; Compensation  Policy #: HR-BC-11-005  Title: Leave of Absence and Leave Without Pay</p>	<p><b>Human Resources</b></p>
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**Purpose** To outline the City’s policy with respect to general leaves of absence, Military Leave, Victims of Crime Leave, Jury/Witness Leave, and/or leave without pay that is not associated with a protected or approved leave of absence.

**Eligibility** All regular status employees with at least 12 months of consecutive City service are eligible to request a general leave of absence without pay.

All regular status employees who have bona fide orders for active military duty or training for a temporary period are eligible for military leave.

All regular status employees are eligible for jury/witness leave, victims of crime leave, and leave without pay.

City temporary employees or temporary agency workers are not entitled to leave under this policy.

Provisions of collective bargaining agreements prevail for bargaining unit employees.

**Policy** **General Leave of Absence**

An employee’s department director and the Human Resources Director may grant an unpaid general leave of absence for up to 30 calendar days.

For unpaid leave in excess of 30 calendar days (not to exceed 6 months), the employee must submit a request in writing providing the reason and duration of leave. Requests must establish reasonable justification for approval. The department director will make a corresponding written recommendation and forward the employee’s written request along with their recommendation to the Human Resources Director and the City Manager for final approval.

Information to be considered when determining whether to approve the employee’s request shall include, but not be limited to, the employee’s professional and operational value to the City; the desirability of retaining the employee, even at some sacrifice to the City; and the current and anticipated future business needs of the City.

During a leave of absence, at the City’s discretion, the position may be filled with either a temporary employee through a staffing agency or a regular appointment through a City recruitment.

*Benefits While on Leave of Absence*

1. Sick leave, vacation hours, and seniority do not accrue during a general leave of absence without pay.



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2. All accrued vacation, floating holiday, holiday leave, and compensatory time will be paid out.
3. Group health (medical, dental, and vision) insurance coverage may be continued at the employee's expense during a general leave of absence for a period of time as specified by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) law.
4. Seniority accrued prior to the leave of absence is not affected.

*Prohibited Use of a General Leave of Absence*

A leave of absence will not be granted to allow an employee time off to seek employment elsewhere or to work for another employer. Employees who begin employment elsewhere while on leave of absence, except Military Reserve Duty, are considered to have voluntarily resigned from their position with the City.

*Return from a General Leave of Absence*

An employee is required to return from an unpaid leave of absence on the originally scheduled return date. If the employee is unable to return on the originally scheduled return date, no later than 7 days prior to the expiration of their approved absence, the employee must submit a written request to the Human Resources Director for consideration that provides the reasons for and duration of additional leave time requested. An employee who has not provided written notice and has not received prior approval from their department director, the City Manager, and the Human Resources Director and who fails to return to work from an approved leave of absence shall be considered as a voluntary resignation and employment will be terminated.

Upon expiration of the leave, the employee may be returned to their former position, if available. If the employee's position is not available, the employee may be offered another position, if available, for which the employee is qualified. If no position is available when the employee is able to return to work, the employee will be put on layoff status.

Provisions of collective bargaining agreements prevail for bargaining unit employees.

**Extended Medical Leave of Absence**

The City will comply with the Family and Medical Leave Act (FMLA), the Oregon Family Leave Act (OFLA), and the Oregon Paid Family Medical Leave Act (OR PFML) as well as the City's Family, Medical, and Safe Leave policy, HR-BC-08.

When an employee is ill, pregnant, or has an injury which prevents them from working for up to 6 months (180 calendar days), they will be maintained on active payroll until all accrued paid leave is exhausted. After that time, the employee may be placed on an unpaid leave of absence. This 6-month extended medical leave of



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absence period will run concurrently with federal and state family, medical, and safe leave.

The employee who is out on a medical leave of absence is expected to return to work as soon as medically able, as determined by a healthcare provider, unless an alternate return-to-work date is approved by the City. If an employee is released by a healthcare provider and does not return to work, the absence will be treated as any other unauthorized absence. If the employee is unable to return to work, as determined by the employee's healthcare provider, or the 6-month leave of absence expires, the City will engage the employee in the interactive process as required under the Americans with Disabilities Act and any other applicable law.

Provisions of collective bargaining agreements prevail for bargaining unit employees.

### **Military Leave**

Employees who are members of the Oregon National Guard or any reserve component of the armed forces of the United States will be granted a leave of absences for military service, training, or other obligations in compliance with state and federal laws including the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Oregon Military Family Leave Act (OMFLA).

In accordance with ORS 408.290, an employee being granted military leave is entitled to a paid leave of absence from duties for a period not exceeding 21 days per training year<sup>1</sup>, provided the employee is employed at least 6 consecutive months prior to the leave. This provision does not apply to weekend duty. Employees with bona fide orders for active duty exceeding 21 days will be granted leave without pay according to USERRA regulations.

### **Victims of Domestic Violence, Sexual Assault or Stalking**

An employee who is a victim or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, or sexual assault may be provided with reasonable leave time in accordance with the Oregon Victims of Certain Crimes Leave Act, as defined by ORS 659A.270. An employee who is eligible for leave time under this Act may also be eligible for Safe Leave under the Oregon Paid Family Medical Leave Act and in accordance with the City's Family, Medical, and Safe Leave policy, HR-BC-08 (*refer to policy for details*).

### **Jury Duty/ Witness Leave**

Employees summoned for jury duty or witness leave shall be granted leave, with pay and without loss of any benefits of employment, to serve as a juror in response to subpoena or similar service issued out of a state, federal, or county court. Generally, the City will not limit the amount of time an employee may serve on a jury and



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receive pay from the court.

An employee on jury duty or witness leave must report to work immediately upon completion of court service each workday. Subject to the applicable collective bargaining agreement, an employee completing a full workday in such service is exempt from this provision.

An employee representing the City in response to a subpoena or witness duty, shall count time served as hours worked. Such employees shall submit any payment received for service to the City's Finance Director or their designee.

An employee required to appear in response to a non-work-related subpoena (jury duty, witness duty, or other court mandated service) shall be granted a leave of absence with pay for the required period of time, up to a maximum of 10 workdays per rolling 12-month period. When service extends beyond 10 workdays, compensation paid by the City will be reduced by the amount of any monies received for service, excepting any amounts received for mileage or meals.

Time on jury duty or witness leave is not counted as hours worked when computing overtime unless the duties are considered to be part of the employee's normal duties.

If a Fair Labor Standards Act (FLSA) non-exempt employee is required to appear as a subpoenaed, disinterested witness in a recognized court proceeding on their regularly scheduled day off and this duty is the direct result of the performance of the employee's job, overtime pay at one and one-half (1-1/2) times will be allowed for actual court time, subject to any applicable collective bargaining agreement terms. Satisfactory evidence of the required court time must be presented to the employee's supervisor before overtime payment will be authorized.


### **Leave Without Pay**

*(Unpaid leave taken that is not part of qualifying protected leave or an approved general leave of absence)*

Leave without pay (LWOP) refers to an intermittent or short-term, temporary non-pay status and absence from duty. City employees are not generally entitled to LWOP unless it is part of qualifying protected leave or an approved general leave of absence.

Under extenuating circumstances, the department director and Human Resources Director may approve an employee to take non-qualifying LWOP. It is the City's expectation that employees will manage their leave accruals responsibly and in a manner that minimizes the need for non-qualifying LWOP. Excessive use of LWOP in this manner negatively impacts a department's operations, productivity, City service delivery, and team morale.

An employee may not take LWOP if they have leave accruals available. To request LWOP, the employee must submit a written request to their supervisor and Human

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Employees should be aware that LWOP may affect their entitlement to or eligibility for certain benefits.

**Definitions**

<sup>1</sup>ORS 408.290 defines “training year” as meaning the federal fiscal year (October 1 through September 30) for any particular unit of the National Guard or a reserve component.

**References**

Refer to specific Collective Bargaining Agreements.

**City Administrative Policies:** HR-BC-08, Family, Medical, and Safe Leave

The Americans With Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (1990)

**Review and Authorization**

Supersedes: HR-BC-11-004 9/1/2023	Created/Amended by/date: HR; 7/18/2024	Effective Date: 1/1/2024
HR Director:  <i>Signature on File</i>	City Manager:  <i>Signature on File</i>	

Training required? No  Yes