**SAMPLE MILITARY LEAVE POLICY**

**The materials provided in this correspondence are for general informational and educational purposes only and are not intended to be and should not be considered legal advice or opinions. Prior to making any policy or rule changes seek the advice of your municipal attorney.**

**I. Purpose**

The purpose of this general order is to establish a set of uniform guidelines to comply with federal and state laws in granting leaves of absence relative to military obligations.

**II. Policy**

It is the policy of the ABC Police Department to be in compliance with both United States and New Jersey laws and regulations related to military reserve duty in order to preserve national security, promote the public good, and ensure that the Department has sufficient human resources to meet its staffing needs.

**III. Definitions**

Federal Fiscal Year: - October 1 through September 30 of the prevailing year.

Active Duty (AD) - Defined as a period of full-time duty in the active state military service other than Active Duty for Training (ADT) pursuant to N.J.S.A. 38A: 1-1i.

Active Duty for Training (ADT)- is defined as a period of full-time duty in active state military service for training purposes other than Active Duty (AD), pursuant to N.J.S.A. 38A: 1-1j. ADT includes, but is not limited to Annual Training (AT).

Active Duty for Operational Support (ADOS) -is defined as active duty, other than active guard and reserve duty, under section 12301(d) of title 10, United States Code; full-time National Guard duty, other than active guard and reserve duty, under section 502(f)(2) of title 32, United States Code; and active duty, including active duty for training, or full-time National Guard duty performed at the request of an organizational or operational commander, or as a result of reimbursable funding.

Annual Training (AT) - is a period of training duty usually two (2) consecutive weeks performed each federal fiscal year, for the purpose of gaining or sustaining unit skills. Annual Training is also referred to as Field Training.

Inactive Duty Training (IDT) **-** includes, but is not limited to:

 1. Unit Training Assemblies (**UTA**), commonly known as weekend drill;

 2. Rescheduled Unit Training Assemblies (**RUTA**), a makeup period for a missed UTA;

 3. Split Unit Training Assemblies (**SUTA**), a makeup period for a missed UTA;

 4. Additional Flight Training Period (**AFTP**), time authorized for flight training/validation;

 5. Readiness Management Assemblies (**RMA**), used to plan/prepare training;

 6. Additional Unit Training Assemblies (**AUTA**), used to accomplish administrative actions in support of training;

 7. M-COFT AUTA, authorized additional training time for instruction of operation of M-COFT training device;

 8. Proficiency Training (**PT**);

 9. Training Period Preparation Assembly (**TPPA**);

 10. Promotional Testing.

Military Reservist - means any permanent employee of this department, either full or part time, who is a member of the Army National Guard, Naval Militia, Marine Corps Reserve, Air National Guard, Coast Guard Auxiliary, or a reserve component of any of the armed forces of the United States.

**IV. General Provisions**

 A. Under current federal law regulating military leave and reemployment rights, military reservists cannot be forced to reschedule their working hours to accommodate military leave; however, they may choose to do so with the permission of management and in compliance with applicable collective bargaining agreements and municipal personnel policies with advance written notice to the Department.

 B. Military reservists are entitled to an unpaid leave of absence to perform Inactive Duty Training. They cannot be compelled to utilize their vacation or compensatory time; however, they may choose to do so.

 C. Rescheduling departmental duty hours to accommodate Inactive Duty Training is permitted, but is not required. If a member chooses to take an unpaid leave rather than reschedule their regular days off to coincide with their Inactive Duty Training, the Department must honor the request.

 D. Military reservists shall be entitled to a leave of absence from their duties, without suffering loss of pay or time, on all days during which that are engaged in Active Duty, Active Duty for Training, Active Duty for Operational Support, or other duty ordered by the Governor of the State of New Jersey, provided that the leave of absence does not exceed 90 days in the aggregate of any one year. Other duty ordered by the Governor includes incidents of insurrection, breach of the peace, disaster or imminent danger to public safety.

 E. Military reservists shall be entitled to a leave of absence from their duties, without suffering loss of pay or time, on all days during which that are engaged in Federal Active Duty, Federal Active Duty for Training, Federal Active Duty for Operational Support, or other duty ordered by the President of the United States, provided that the leave of absence does not exceed 30 days in the aggregate of any one year. (N.J.S.A. 38:23-1).

 F. If a member/employee exceeds 30 Federal military leave days (for reservists and members of the National Guard of a state other than New Jersey), or 90 State of New Jersey military leave days for members of the New Jersey National Guard or reserve component, the township shall not be responsible for paying the salary of the member/employee. Rather, the township shall make up the difference between the military salary and the township salary, provided that the military salary is less than the township salary. (N.J.S.A 38:23-3).

 G. Military reservists shall be entitled to a leave of absence from their duties for periods of Inactive Duty Training, BUT without compensation in pay or time. As previously mentioned, military reservists cannot be forced to reschedule their duty hours to accommodate military leave for Inactive Duty Training, nor can they be forced to utilize vacation or compensatory time, however, they may choose to do so.

 H. The Department is strictly forbidden from any form of retaliation or reprisal against a member/employee for taking military leave.

 I. All requirements and provisions of the Uniform Services Employment and Reemployment Rights Act (**USERA**) must be adhered to by the Department and all members/employees.

**V. Scheduling Military Leave Time**

 A. Military reservists who receive orders for Active Duty, Active Duty for Training, or Inactive Duty Training, that conflicts with their departmental scheduled work assignment or potential overtime duty, shall immediately submit a written report requesting a military leave of absence to their supervisor, to be forwarded through the chain of command to the Chief of Police.

 1. This report must be submitted as expeditiously as possible upon receipt of the military orders to facilitate scheduling.

 2. The written report shall contain the following information, at a minimum:

 a. The date and times of the military leave;

 b. The number of work days requested to be excused;

 c. The expected date of return to duty;

 d. A copy of the official military orders precipitating the request. If official military orders are not immediately available, the employee shall forward them immediately upon receipt).

 3. If the request for military leave is for Inactive Duty Training, the employee requesting the leave must indicate whether:

 a. They wish their departmental work days to be rescheduled, or;

 b. They wish to use vacation or compensatory time, in which case the time-off requests shall be attached to the report, or;

 c. They intend to NOT be paid for the leave.

 B. Upon receipt of the military reservist’s annual Inactive Duty Training Schedule (**weekend drill schedule**), the member/employee shall submit a copy of the schedule, noting their IDT dates, to their supervisor. This copy should be forwarded, no later than December 15th, for the subsequent year. Any changes to the already submitted annual IDT schedule will require a written report noting the changes. A copy of the military order shall accompany the notification report.

 C. The Chief of Police or designee is responsible for verifying that any military leave is mandatory. It is also their responsibility to ensure that the necessary changes are made to the schedule, based upon the type of leave requested or needed.

**V. Notifications**

 A. Injuries sustained while on active duty, active duty training, or inactive duty training must be promptly reported to this department as it may impact upon work performance. Copies of any medical or treatment forms must accompany the notification report.

 B. Military disciplinary action resulting from active duty, active duty training, or inactive duty training must be promptly reported to this Department.

 C. Upon separation from the military or a reserve component, employees must notify the Chief of Police.

**VI. Medical Leave - Military**

 A. For purposes of this subsection only, the following terms are defined:

 1. **Active duty** means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

 2. **Contingency operation** has the same meaning given such term in section 101(a)(13) of title 10, United States Code.

 3. **Covered service member** means a member of the Armed Forces, including a member of the National Guard or Reserves, or veteran who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

 a. Covered service member also includes a member of the Armed Forces, including a member of the National Guard or Reserves at any time during the five years preceding the date of treatment. The medical treatment must be related to a serious injury or illness incurred while in the line of duty on active duty in the Armed Forces or that existed before the beginning of military service and was aggravated by service in the line of duty while on active duty.

 4. **Outpatient status** means the status of a member of the Armed Forces assigned to:

 a. A military medical treatment facility as an outpatient; or

 b. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

 5. **Next of kin of a covered service member** includes the nearest blood relative other than the covered service member’s spouse, parent, son or daughter in the following order of priority:

 a. Blood relative granted legal custody;

 b. Brothers and sisters;

 c. Grandparents;

 d. Aunts and uncles and first cousins;

 e. Unless the service member has designated in writing another blood relative.

 f. Multiple family members can take leave consecutively or simultaneously.

 6. **Son or daughter of a covered service member** includes:

 a. Biological child;

 b. Adoptive child;

 c. Step or foster child;

 d. Legal ward; and

 e. A child of a person standing in loco parentis who is of any age.

 7. **Parent of a covered service member** includes:

 a. Biological parents;

 b. Adoptive parents;

 c. Step or foster father or mother; or

 d. Anyone who stood in loco parentis to employee

 e. Does not include parents in law.

 8. **Serious injury or illness** means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

 B. Military Caregiver Leave permits eligible members/employees to take up to 26 work weeks of FMLA in a 12 month period per injury and/or per covered service member to care for a spouse, child, parent, or next of kin who is a covered service member with a serious injury of illness incurred in the line of duty on active duty.

 1. Care includes physical and/or psychological care; and

 2. is applicable even if additional family members are available or are not providing the actual care (comfort or reassurance is sufficient).

 C. Qualifying Exigency Leave permits eligible members/employees with a covered military member on active duty who are deployed to a foreign country and National Guard or Reserves to take up to 12 work weeks in a 12 month period to use for any qualifying exigency arising while the covered member is on active duty or called to active duty in support of a contingency operation.

 1. Qualifying exigency includes:

 a. Short notice deployment (7 calendar days); or

 b. Military events and related activities; or

 c. Childcare and school activities; or

 d. Financial and legal arrangements; or

 e. Counseling; or

 f. Rest and recuperation; or

 g. Post deployment activities; or

 h. Additional activities where the township and the member/employee agree to the leave.