

ADMINISTRATIVE ORDER NUMBER 2-19

SUBJECT: Leaves of Absences [Military, LWOP and Paid Administrative]

Responsible Department: Personnel Services

Date Issued: 01-01-2000

Date Revised: 06-02-2020; 06-03-2025

Approved: *(Signature on File)*

Purpose and Procedure

To establish supplemental and uniform procedures applicable to leaves of absence for Military, Leave without Pay (LWOP), and Paid Administrative Leave. Employees requesting Military and/or Leave without Pay shall seek approval for such leave in advance from their immediate supervisor.

Military Leave

Section 3-111 of the Fresno Municipal Code states that every employee shall be entitled to military leave of absence as provided for in the Military and Veterans Code of California, Division 2, Part 1, Chapter 7.

Special provisions for employees on active duty military leave can be found in the Salary Resolution.

Pursuant to California Military & Veterans Code Sections 395, 395.01, and 395.02, any City of Fresno 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 a temporary military leave of absence as provided by federal law while engaged in military duty ordered for purposes of active military training, inactive duty training, encampment, naval cruises, special exercises, or like activity, providing that the period of ordered duty does not exceed 180 calendar days, including time involved in going to and returning from that duty.

While on a temporary military leave of absence, employees shall receive the same Vacation, Sick Leave, and Holiday, and other accrued leave privileges, and the same rights and privileges to promotion, employment, or reemployment that the employee would have enjoyed had they not been absent, except that an uncompleted probationary period, if any, shall be completed upon reinstatement as provided by law or rule of agency.

Employees on temporary military leave of absence for military duty ordered for purposes of active military training, inactive duty training (military drills), encampment, naval cruises, special exercises, or like activity, providing that the period of ordered duty does not exceed 180 calendar days, including time involved in going to and returning from

that duty, shall be entitled to receive their salary or compensation as a for the first thirty (30) calendar days of the absence. Pay for temporary military leave of absences may not exceed thirty (30) calendar days in any one (1) fiscal year.

Employees on military leave of absence other than temporary military leave of absence shall be entitled to receive their salary or compensation for the first thirty (30) calendar days while engaged in the performance of ordered military duty.

Pursuant to California Military & Veterans Code Section 395.03, employees shall receive pay for no more than thirty (30) calendar days as allowed under the provisions of Section 395.01 or 395.02 for any one (1) military leave of absence or during any one (1) fiscal year, inclusive of inactive duty training, at the employee's election, or as otherwise provided in a memorandum of understanding reached with an employee organization or as stated in the Salary Resolution.

To be eligible to receive compensation for a military leave of absence, employees must have been in the service of the public agency from which the leave is taken for a period of not less than one (1) year immediately prior to the date upon which the absence begins. In determining one (1) year of public agency service, all service of a public employee in the recognized military service shall be counted as public agency service.

Upon the termination of the military leave of absence, employees have a right to be restored to the former position and status formerly had by them at the City of Fresno. If the position has been abolished or otherwise has ceased to exist during their absence, the employee shall be reinstated to a position of like seniority, status, and pay if a position exists, or if no position exists the employee shall have the same rights and privileges that they would have had if they occupied the position when it ceased to exist and had not taken temporary military leave of absence.

The following documentation requirements apply to obtaining compensation for military leave:

1. Formal military orders shall be submitted with a request for leave of absence, if available. Formal military orders are those orders directed to the employee that state type of duty/authority (e.g., active, inactive, operations, etc.), reporting date, length of duty, duty station, and permanent order numbers, and that bear an authorized signature.
2. If formal military orders are unavailable at the time, a military memorandum addressed "To Whom It May Concern" and signed by or for the commander, will allow an employee to commence compensable military leave, subject to meeting eligibility criteria. However, formal military orders must be submitted within thirty (30) days after the employee has returned from such leave. Failure to submit formal military orders shall cause such leave to be converted to leave without pay. Exceptions to this provision may be made for good cause by the City Manager (or appropriate appointing authority, such as the City Attorney).

3. If employees are not issued formal military orders for inactive training drills (e.g., monthly weekend drills), a memorandum from the commanding officer, or designee, or a drill schedule shall be adequate.
4. If an employee is unable to obtain documentation consistent with the above, the employee may work with the Director of Personnel Services upon their return to submit satisfactory documentation. Military benefits owed to the employee will not be provided until the employee actually submits acceptable documentation.
5. Pursuant to California Military & Veterans Code Section 395.01, the City may adjust an employee's workdays so that the employee is not scheduled to work during periods of "inactive duty such as scheduled reserve drill periods."
6. The City recognizes that each set of military orders and each situation may trigger different entitlements under applicable law. If a particular situation does not fit within the procedures set forth above, the employee should contact the Director of Personnel Services for an individualized assessment of entitlements.
7. Any misrepresentations made by the employee with respect to military leave and/or compensation for military leave will subject employees to corrective action and/or discipline, up to and including termination.

Leave of Absence Without Pay

Department directors are authorized to grant leave of absence without pay for periods of ten consecutive working days or less. Leave of absence without pay should not be authorized when an employee has an applicable leave balance. Leave of absence without pay is otherwise administered in accordance with Section 3-104 of the Fresno Municipal Code.

Paid Administrative Leave

The appointing authority or their designee after consultation and approval as to form by the City Attorney and the Personnel Director (or their designees), and with the approval of the City Manager or their designee, may place an employee on administrative leave with pay when it is determined to be in the best interest of the City. Such consultation will include a review of the reasons why the appointing authority is seeking approval of administrative leave. In the event of an officer involved shooting, an officer is placed on administrative leave and subsequent notice is provided to the Personnel Director.

The employee being placed on paid administrative leave shall be provided written notification of administrative leave, as soon as reasonably possible. A model notice is provided as an attachment to this Administrative Order.

Attachment: City of Fresno Notice of Paid Administrative Leave

**City of Fresno
Notice of Paid Administrative Leave**

To: NAME, JOB TITLE (ID Employee ID number)

Department of DEPARTMENT

Effective immediately, I am placing you on paid administrative leave pending completion of an investigation relating to allegations of your potential misconduct as authorized by Administrative Order 2-19. Paid administrative leave is not discipline or corrective action or other adverse action, although discipline or corrective action may subsequently be imposed. If disciplinary or corrective action is found to be warranted, you will be notified as soon as possible. While on administrative leave, you will continue to receive your regular pay and benefits.

During this period of administrative leave, you are required to comply with the below. Failure to meet these requirements could result in disciplinary or corrective action, up to and including termination:

- You must be available by telephone during regular business hours (Monday-Friday, 8 a.m. to 5 p.m. This may be modified if the employee works a different schedule).
- You must be available to report to the Department within one-hour, or as otherwise approved by your Department Director or designee, of being contacted. You must be available to City personnel for administrative investigative interviews.
- If at any time during the above business hours you will not be available or if you are seeking approval for vacation time, you must contact CONTACT PERSON, TITLE, immediately at (559) 621-NUMBER to advise them that you will not be available or to otherwise seek approval. As soon as you become available again, you must advise the contact person.
- Unless instructed in writing by the City or the Department, you are not permitted to come to your job site or any other City Department or work site which is not open to the general public.
- You are directed to not consult, direct, or otherwise become involved in the work of co-workers, subordinates, or other City employees, or conduct any work on behalf of the City or the Department. You are also directed to not contact current City employees during their work hours regarding work issues. This restriction while on administrative leave includes a prohibition from accessing work email or systems. However, you may contact your union representative, if any.
- The only time you are excused from being available during the business hours above shall be if you have pre-approved and scheduled vacation/annual

leave that would require you to use your own leave banks as previously approved before the effective date of this administrative leave or if otherwise authorized during the period during which you would otherwise be on paid administrative leave.

- You are directed to immediately return all City property, i.e., keys, equipment, etc.

You may retrieve any personal items from your work area prior to your departure today OR upon request at a mutually convenient time. However, the City reserves the right to review any items removed from an area to confirm they are not City property. Should you need to retrieve any other personal items from your work area, please make arrangements with the contact person noted above at least 24 hours in advance.

As a reminder, please be advised during this administrative leave, you shall not engage in any work or work involving any other remunerative occupation, including self-employment, during your regular work hours.

Failure to follow the above directives will be considered insubordination and may result in disciplinary action, up to and including termination. Furthermore, any unavailability and failure to communicate may be deemed to be an abandonment of your employment pursuant to Fresno Municipal Code §3-115.

Dated this ____ day of _____, 20__.

Department Director

Approved:

City Manager's Office

Approved as to form:

City Attorney's Office

Personnel Services Director