Military Service Policy

Purpose:

The Retirement Board of the County Employees' and Officers' Annuity and Benefit Fund of Cook County and ex officio for the Forest Preserve District Employees' Annuity and Benefit Fund of Cook County (collectively, "Fund") commends employees who protect our country through service in the United States armed services. This Military Service Policy provides for the coordination of service credit and benefits provided by the Illinois Pension Code ("Pension Code") [40 ILCS 5/1-101 et seq.], USERRA and the Heart Act (each as hereinafter defined) for periods of military service.

Definitions:

For the purposes of this Military Service Policy, the term "military service" means active-duty military service by any employee who is or was a member of any active or reserve component of the United States armed services, including the Illinois National Guard. The term "employee" shall mean any regular employee of Cook County, the Forest Preserve District of Cook County, or the Fund. The terms "County employment" and "County service" shall include service with Cook County, the Forest Preserve District of Cook County, and the Fund. The Uniformed Services Employment and Reemployment Rights Act ("USERRA") is the federal law that allows employees to purchase service credit for military service time. Employees with military service time may also be eligible to receive death, disability, and annuity benefits under the federal Heroes Earnings Assistance and Relief Tax ("HEART Act"), which is incorporated into the Pension Code.

General Description of Service Credit for Military Service Under the Pension Code and Federal Law:

Both the Pension Code and federal[1] law permit employees to establish service credit for military service. Under the Pension Code and USERRA, if an employee leaves County employment to enter military service and subsequently returns to employment, he or she may establish service credit under the Pension Code for the period of military service. In addition, under the Pension Code, an employee may establish service credit for up to two years of military service whether or not the military service occurred after the employee entered County employment. but only if the employee was not dishonorably discharged. In all cases, to establish service credit, the employee contributions which would have been made during the period of military service must be remitted to the Fund while the employee is in County service. Additional requirements to establish service credit are described hereafter in this policy.

[1]To qualify for federal benefits under USERRA and the HEART Act, an employee must have been in training or on active duty in the armed services of the United States. Under current law, an employee may not use state military service performed as a member of a state national guard for the benefits provided by USERRA and the HEART Act. However, if the employee was called into service in a state national guard by the President in a time of war or emergency, the employee may receive benefits under USERRA and the HEART Act for that period of military service.

Eligibility:

Any employee who is a contributing member to the Fund may be eligible to receive service credit for military service under the Pension Code and USERRA. The military service may be performed before or after the employee enters County employment. To be eligible to receive service credit for military service, the employee must not have been dishonorably discharged, must provide verification of the employee's dates of active duty, and must pay any employee contributions plus interest due for the period of military service. Any employee who was a contributing member to the Fund before entering military service may be eligible to receive death, disability, and annuity benefits under the Pension Code and the HEART Act if disability or death occurs during military service.

Establishing Service Credit for Military Service Under the Pension Code and USERRA:

1. Military Service After County Employment Commences
   a. Section 9-179(B) of the Pension Code

Section 9-179(b)[2] of the Pension Code provides that an employee who enters military service while in County service may receive service credit for the period of the employee's military service. The employee must first be a contributing member of the Fund who then leaves County employment to enter the United States armed services. The employee must not have been dishonorably discharged from the armed services and must return as a contributing employee within 90 days following the date of discharge. If the employer has not made any contributions on the employee's behalf during the period of military service, the employee may do so. Under Section 9-179(b) there is no maximum amount of military service time that may be purchased for service credit. The employee must pay all such contributions prior to separation from County employment.[3]

   b. USERRA

USERRA also permits an employee to receive service credit for military service, as provided in Section 9-179(b) of the Pension Code. USERRA allows an employee to pay contributions due for military service without interest if the contributions are paid within five (5) years of the date of re-employment.

   c. Requesting Credit for Military Service

To request service credit for military service, the employee must contact the Fund. The employee must submit a copy of their Certificate of Release or Discharge from Active Duty, otherwise known as the DD-214. In the event that a DD-214 cannot be obtained, the employee must submit a copy of their release order or other military discharge papers that certify the dates of active military service. and verify the "Character of Service."[4]

[2]Any employee may contribute to the fund for any period during which the employee was in the armed services of the United States if the employee left the service of the county to enter military service in the armed services and returned to the service of such county within 90 days after discharge from such armed service, and if such county did not make such payment on the employee's behalf, such amounts as would have contributed for annuity purposes had deductions from the employee's salary been made at the rates in effect under the provisions of "The 1925 Act" during the period of time such service was rendered. Section 9-179(b) of the Pension Code, 40 ILCS 5/9-179(b).

[3] Nothing in this policy is intended to limit any reemployment rights afforded under USERRA.

d. Calculation of Salary

If the employee's actual salary cannot be ascertained for the period of military service, the Fund shall use the average of the employee's salary on the date the employee left County service and the employee's salary upon returning to County service to determine the salary for the applicable military service period. In addition, the 90-day return-to-work (post-discharge) period will be considered the same as active military service for the purposes of this Military Service Policy.

EXAMPLE:

An employee served in the military from June 2010 through October 2012. When the employee left County service in June 2010, the bi-weekly salary was $1,500.00. Upon re-entering County service in October 2012, the bi-weekly salary was $1,637.70. To calculate the attributable salary for the period of military service, the Fund will average the two salary amounts:

$$\frac{(\$1{,}500.00 + \$1{,}637.70)}{2} = \$1{,}568.85$$

The bi-weekly salary of $1,568.85 will be used for all purposes under this policy, including the determination of benefits and the calculation of contributions due.

e. Required Contributions

The required contribution cost shall be based upon the contribution rate as if the employee were employed during the period of military service plus the statutory interest rate in effect as of the date of repayment. However, if payment is made within five (5) years of re-employment for a period of military service not to exceed five (5) years, as provided by USERRA, the employee will be required to pay only the contributions, without interest, that the employee would have made had the employee continued employment without the intervening military service

2. Military Service Before or After County Employment Commences

a. Section 9-179.1 of the Pension Code

Section 9-179.1[5] of the Pension Code permits an employee to purchase up to two (2) years of military service whether or not the military service followed their County employment. To be eligible to purchase military service under this provision of the Code, a member must be an actively contributing employee in County service.

[4] "Character of Service" is used on the DD214 to indicate the type of military service and discharge

b. Requesting Credit for Military Service

To request credit for military service, the employee must contact the Fund. The employee must submit a copy of their DD-214. In the event that a DD-214 cannot be obtained, the employee must submit a copy of their release order or other military discharge papers that certify the "Character of Service" and verify the dates of active military service.

c. Calculation of Salary, Contributions, and Interest Due Pursuant to Section 9-179.1 of the Pension Code

The Fund shall consider the employee's salary before and after the period of military service, as applicable. The Fund shall use the higher of the two salaries to determine the repayment cost for the military service period. The repayment cost shall be based upon the contribution rate as if the employee were employed during the period of military service plus the statutory interest rate in effect as of the date of repayment.

In the event that an employee's total military service exceeds two (2) years, the most recent two (2) years shall be used.

EXAMPLE 1:

An employee served in the military from June 1963 through October 1968. The two-year purchase period would be November 1966 through October 1968.

EXAMPLE 2:

An employee served in military from June 1963 through October 1968 and again from January 1970 through April 1970. The two-year purchase period would be 20 months from March 1967 through October 1968 plus four months from January 1970 through April 1970 (24 months = 2 years).

[5]Sec. 9-179.1. Military service. A contributing employee may elect to purchase creditable service for up to 24 months of active-duty military service, whether or not that service followed service as a county employee. The military service need not have been served in wartime, but the employee must not have been dishonorably discharged. To establish this creditable service, the contributing employee must pay to the Fund, while in the service of the county, an amount determined by the Fund to represent (i) the employee contributions for the creditable service based on his or her rate of compensation on his or her last day as a contributor before the military service or on his or her first day as a contributor after the military service, whichever is greater, plus (ii) interest calculated at the effective rate from the date used to determine the rate of compensation for employee contributions under item (i) to the date of payment.

3. Additional Provisions
   a. Crediting Service

Under the Illinois Pension Code, military service will not be credited to the employee's account until such time as contributions, plus any interest, due for military service are paid in full or the employee separates from County employment. For an explanation of benefits under the Heart Act, please see the section below. In the event that the employee separates from County employment having paid a portion of military service contributions due, service will be credited for those payments made prior to separation. Payments will only be accepted during the employee's County employment.

   b. Contributions Made During Active Duty

The cost to be paid under this Policy will be reduced by the amount of any employee contributions already made on the employee's behalf as a result of County salary received during the period of military service.

   c. Payment of Contribution

For all purposes under this Policy, the salary used to calculate the cost of contributions for military service shall be the salary used in the calculation of any benefits from the Fund.

I. Payment of Contributions Under USERRA (Without Interest)

USERRA provides that an employee may purchase up to five (5) years of military service within five (5) years of the date of re-employment. Any contributions paid within five (5) years of re-employment will not be charged interest

II. Payment of Contributions For More Than 5 Years of Military Service (Interest Charged)

Under Section 9-179(b) of the Pension Code, an employee may choose to purchase more than the five (5) years of military service provided by USERRA. However, contributions for more than five (5) years of military service will be charged interest from the date the contributions would have been made if the employee had remained in County service.

III. Payment of Contributions After 5 Years of Re-Employment (Interest Charged)

Under Section 9-179(b) of the Pension Code, an employee may choose to purchase more than the five (5) years of military service provided by USERRA. However, contributions for more than five (5) years of military service will be charged interest from the date the contributions would have been made if the employee had remained in County service.

   d. Duplication of Military Service Credit

In no event shall an employee be eligible to receive service credit for a period of military service under more than one participating retirement system under the Pension Code in accordance with 40 ILCS 5/20-120. If an employee elected to receive military service credit while employed by another Illinois public retirement system, the employee is not eligible to purchase military service credit for the same period while serving as a County employee.

Benefits for the Military Service Under the HEART Act

1. HEART Act

Employees may be eligible for death, disability, and annuity benefits under the HEART Act. An employee who dies or becomes disabled while performing military service in the United States armed services will be treated as if the employee had resumed employment on the day preceding death or disability. In the event of a disabling injury or illness sustained in the performance of such military service, the employee may be eligible to receive disability benefits in accordance with Sections 9-157, 9-158, 9-159, and other applicable provisions of the Pension Code. In the event of a death while performing such military service, the employee's surviving spouse or child(ren) may be eligible to receive a spouse annuity or child's annuity in accordance with the applicable provisions of the Pension Code.

a. Requesting Benefits under the HEART Act

The employee, the deceased employee's estate, or the surviving spouse of the deceased employee must make a request to the Fund regarding benefits under the HEART Act. The applicant must submit a copy of the employee's DD-214. In the event that a DD-214 cannot be obtained, the applicant must submit a copy of the employee's release order or other military discharge papers that certify the "Character of Service" and attest to the dates of active military service. The Fund may require additional documentation that substantiates and validates the claim and the periods of the claim. It shall be the sole responsibility of the employee, the deceased employee's estate, or the surviving spouse of the deceased employee to apply for benefits and submit documentation to the Fund establishing that the employee became disabled or died while performing military service.

b. Annuity and Death Benefits \

In accordance with the provisions of the HEART Act and with proper documentation, the Fund may treat an employee's death in military service as if the employee had resumed County employment on the day preceding the date of death and may provide a "death in service" surviving spouse annuity. Any minor child(ren) of the employee may be entitled to child's annuity benefits as outlined in the Pension Code. Furthermore, as a death in service, the $1,000 death benefit will apply in accordance with Section 9-135.1 of the Pension Code.

c. Disability Benefits

In accordance with the provisions of the HEART Act and with proper documentation, the Fund may provide disability benefits as provided for in the Pension Code. The Fund may treat the employee as having resumed County employment on the day preceding the event causing the disability.

d. Cost to Employee

The employee, the deceased employee's estate, or the surviving spouse of the deceased employee is not required to remit contributions for the period of military service to be eligible for benefits under the HEART Act. The employee will be treated as if he or she had resumed County employment on the day preceding death or disability. However, if contributions and any required interest are not paid for the period of military service, the employee will not receive service credit for this period, nor can this period be included in any benefit calculation. If contributions and any required interest for military service period are paid in full, the employee will receive service credit for the military service period, which will then be included in any benefit calculation.

If an employee, the deceased employee's estate, or the surviving spouse of the deceased employee elects to pay contributions for military service, the employee may do so in accordance with this Policy and applicable law. The surviving spouse or estate of a deceased employee may make arrangements with the Fund to collect contributions and any required interest related to military service from any current or future benefit payable under the HEART Act; however, payment must be made to the Fund within the five (5) year period as allowed under USERRA. If payment is not fully collected from the spouse or estate of a deceased employee and any balance remains outstanding, the Fund maintains the right to collect any unpaid amount from any future benefit.

To ensure compliance and coordination with the Illinois Pension Code, USERRA, and the Heart Act, members are encouraged to contact the Fund regarding their military service rights.

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