



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, the "Fund") commends and is proud to support 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.*] for periods of military service.

DEFINITIONS

For the purposes of this Military Service Policy, the term "military service" means active duty 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.

GENERAL DESCRIPTION OF SERVICE CREDIT FOR MILITARY SERVICE UNDER THE PENSION CODE AND FEDERAL LAW

Both the Pension Code and federal¹ law permit employees to establish service credit for military service. Under the Pension Code and the Uniformed Services Employment and Reemployment Rights Act ("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 with 25 years of service who was a member of the Fund as of January 1, 1993, 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. 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. Additional requirements to establish service credit are described hereafter in this policy. Employees who performed federal military service 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.

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. 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 be honorably discharged, must provide verification of the dates of his or her active duty, and must pay any employee contributions 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 employed may receive service credit for the period of his or her 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 be honorably 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.

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. Service credit for military service under USERRA may not exceed a cumulative total of five (5) years.

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 his or her DD-214. In the event that a DD-214 cannot be obtained, the employee must submit a copy of his or her release order or other military discharge papers which certify to an honorable discharge and attest to the dates of active military service.

² Any employee may contribute to the fund (1) any period during which he was in the armed service of the United States if he 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 his discharge from such armed service, and if such county did not make such payment on his behalf, such amounts as he would have contributed for annuity purposes had deductions from his 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).

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 when he or she left County service and his or her 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:

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 he or she would have made had his or her employment continued without the intervening military service (without interest).

2. Military Service Before or After County Employment Commences

a. Section 9-179.1 of the Pension Code

Section 9-179.1³ of the Pension Code permits an employee to purchase up to two (2) years of military service whether or not the military service followed his or her County employment. To be eligible to purchase military service under this provision of the Code, a member must have been a contributing employee as of January 1, 1993 and must have at least twenty-five (25) years of paid contributed County service with the Fund. Service with a reciprocal employer will not be considered.

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 his or her DD-214. In the event that a DD-214 cannot be obtained, the employee must submit a copy of his or her release order or other military discharge papers which certify to an honorable discharge and attest to the dates of active military service. The Fund will first verify that the employee was a contributor to the Fund as of January 1, 1993, and that the twenty-five (25) year service contribution requirement has been met. The maximum service period that may be purchased is two (2) years of military service.

c. Calculation of Salary and Contributions Due

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.

³ Sec. 9-179.1. Military service. A contributing employee as of January 1, 1993 with at least 25 years of service credit may apply for creditable service for up to 2 years of military service whether or not the military 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 applicant must pay to the Fund, while in the service of the county, an amount determined by the Fund to represent the employee contributions for the creditable service established, based on the employee's 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 interest at the effective rate from the date of discharge to the date of payment. If a person who has established any credit under this Section applies for or receives any early retirement incentive under Section 9-134.2, the credit under this Section shall be forfeited and the amount paid to the Fund under this Section shall be refunded. (Source: P.A. 87-1265.)

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).

3. Additional Provisions

a. Crediting Service

For all purposes under this policy, military service will not be credited to the employee's account until such time as contributions due for military service are paid in full or the employee separates from County employment. 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 Military Service 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 Contributions

For all purposes under this Military Service 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 wait longer than five (5) years after resuming County employment to pay for military service. However, contributions made after five (5) years from the date of re-employment 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. 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 he or she is a County employee.

BENEFITS FOR 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 as defined in Section 9-179(b) of the Pension Code will be treated as if he or she had resumed employment on the day preceding death or disability. In the event of a disabling injury or illness sustained in the performance of 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 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 which certify to an honorable discharge 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 he or she 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 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 for military service 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, he or she may do so in accordance with this Military Service Policy and the applicable law. The surviving spouse or estate of a deceased employee may make arrangements with the Fund to collect contributions related to military service from any current or future benefit payable under the HEART Act; however, payment must be made (collected) 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.

Adopted on November 7, 2013.