

## **Family and Medical Leave**

### **I. Values**

It is the City's intent to comply with all federal and state laws regarding employee entitlements to legally-mandated benefits.

### **II. Purpose**

To provide provisions for complying with the federal Family and Medical Leave Act (FMLA) as well as state laws governing parental and maternity leave requirements.

### **III. Policy**

Effective October 1, 2008, eligible employees may take up to 12 weeks of job-protected unpaid leave during any twelve-month period for specified family and medical reasons as required by FMLA, Washington family leave, and Washington maternity leave laws. Where more than one law applies to the requested leave, the City will exercise its right to run the leaves concurrently whenever possible. FMLA leave eligibility will be calculated, using a rolling 12-month period from the start of the FMLA leave except where otherwise specified by collective bargaining agreement or past practice. (Prior to the above effective date, FMLA leave will be granted based on a calendar year in accordance with the previous City policy.)

### **IV. Eligibility**

To qualify to take family and medical leave, an employee must meet all of the following conditions:

1. The employee must have been employed with the City for at least 12 months or 52 weeks (does not need to be consecutive).
2. The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave would begin.

### **IV. Leave Availability**

Employees are entitled to unpaid leave of up to 12 weeks per year for any one of the following reasons:

- A. Care of a newborn or newly adopted or newly placed child during the first 12 months after birth or placement for adoption (may begin before date of birth or

placement for adoption).

- B. Care of a spouse, child, or parent with a serious health condition.
- C. An employee's own serious health condition that makes the employee unable to perform the essential functions of the job.
- D. A "qualifying exigency" arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan
- E. To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces, provided that such injury or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating.

The 12 weeks of family and medical leave, available under (A) above, is in addition to leave available to female employees during the period of actual disability due to pregnancy or childbirth.

#### **V. Serious Health Condition Definition**

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves one of the following scenarios:

- A. Inpatient care at a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care; OR
- B. Continuing treatment, by or under the supervision, of a health care provider for a chronic or long-term health condition or prenatal care.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition which, if left untreated, would result in incapacity of more than three days, would be considered a serious health condition.

#### **VI. Leave Availability for Servicemember FMLA Leave**

Eligible employees are entitled to unpaid leave of up to 12 workweeks per year for a qualifying exigency during any 12-month period.

Eligible employees may take up to 26 weeks of leave during a single 12-month period to care for the qualified servicemember. Leave to care for an injured or ill servicemember, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. Servicemember FMLA leave runs concurrent with other leave entitlements provided under federal and state law as well as City policy

**VII. Intermittent Leave**

Employees may be entitled to family and medical leave on an intermittent or reduced hours basis. For example, an employee may take intermittent leave to attend chemotherapy treatments or take a reduced hours leave to attend physical therapy appointments. Intermittent or reduced leave is not available for parents wishing to care for their newly born or adopted children.

**VIII. Limits of Family and Medical Leave Use**

If a husband and wife are both employed by the City, the City may restrict the employees' leave to a combined total of up to 12 workweeks of leave in a 12 month period for the birth, adoption, or placement of a child for foster care or for the care of a parent with a serious health condition.

Family leave taken to care for a newborn or newly adopted child must be completed within 12 months of the child's birth or placement for adoption.

**IX. Notice and Certification**

Unless the need for leave is not foreseeable, the City requires at least 30 days advance notice of the leave. All employees must complete a Request for Leave form. If an employee is unable to provide a written request, but provides a verbal request, the City will honor the request and complete a request for leave on the employee's behalf.

If the leave is requested because of the employee's own serious health condition or because of the serious health condition of a family member, the employee must submit a Medical Certification of Health Care Provider form completed by the appropriate health care provider to Human Resources within fifteen business days. Forms are available from the Human Resources Department.

If the leave is to care for a child, the employee must submit documentation confirming the date of birth, adoption, or foster placement within ten business days of the event. To qualify for maternity disability leave prior to birth, a female employee must provide medical certification of the need for the leave. Medical certification is also required for disability leave due to pregnancy or childbirth that exceeds six weeks.

The City may require a second opinion at the City's expense by a health care provider selected by the City if it has reason to doubt a medical certification. If necessary to resolve a conflict between the original certification and the second opinion, the City may require a third opinion (also at its expense) by another health care provider, jointly approved by the City and the employee. The third opinion will be considered final. The employee will be provisionally entitled to leave and benefits provided for in this policy pending the second and/or third opinion.

The City will provide an employee with written guidelines as to the specific conditions and requirements of the employee's leave. An employee out of work for more than 30 days, must submit an updated certification of health care provider form to Human Resources. FMLA leave must be re-certified every 30 days or until the employee

returns to work. An employee returning from leave taken for his or her own serious health condition may be required to provide medical certification of his or her ability to return to work.

## **X. Use of Paid Leave and Unpaid Leave**

Family and medical leave is unpaid. An employee may, however, be required or have the right to substitute accrued paid leave for all or part of a family or medical leave. Whether this is the case will depend on the reason for which the leave is taken and the types and amount of paid leave the employee has accrued. Absent extenuating circumstances:

- A. An employee taking family and medical leave to care for a child who is ill, to take the child for medical care OR to care for a spouse or parent who has a serious health condition must use accrued sick leave, vacation, and floating holidays before moving to unpaid leave. Sick leave is not available for use to care for a child over 18 unless they are incapable of self-care, due to a mental or physical disability.
- B. An employee taking FMLA leave to care for a healthy newborn or newly-placed child may use up to 5 days of sick leave immediately following birth or placement of the child if sick leave is available. Accrued vacation leave and/or floating holiday must be used if additional leave beyond the 5 days immediately following the birth or placement of the child is taken. All accrued vacation leave and floating holidays must be used before moving to unpaid leave.
- C. An employee who is taking family and medical leave for his/her own serious health condition (including for any period of disability related to pregnancy or childbirth) must use paid sick leave first, accrued vacation and floating holidays before moving to unpaid leave.

Absences due to industrial illness or injury that qualify for time loss payments under workers compensation statutes will typically qualify for and be counted as family and medical leave as well.

In all cases, any paid leave will count toward the 12-week maximum leave time granted by law.

## **XI. Benefits While on Leave**

The City will continue to provide its contribution towards medical, dental, and vision insurance benefits during family and medical leave. During unpaid leave (i.e. during any portion of family and medical leave when paid leave is not available):

- A. Employees are responsible for payments of any portions of medical, dental, and vision insurance premiums that would normally be deducted from the employee's paycheck; AND
- B. Employees will not earn sick or annual leave benefits or retirement benefits, and seniority will not continue to accrue; AND

- C. Employees may continue their life insurance and long-term disability coverage at their own expense. Employees should contact Payroll for instructions regarding payment of premiums.

If an employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or some other circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.

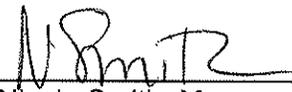
## **XII. Return to Work**

Employees returning to work at the conclusion of family and medical leave, will generally be returned to their same or an equivalent job with equivalent pay and benefits. Reinstatement is not required if the position was eliminated by a bona fide restructuring or reduction in force or the employee fails to return from the leave at the conclusion of family and medical leave.

## **XIII. Collective Bargaining Agreements**

To the extent collective bargaining agreements or LEOFF disability statutes provide for different or additional benefits or protections, those provisions shall control to the extent allowed by law.

Approved:

  
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Nicola Smith, Mayor

2-23-2016  
Date