

Number: 414
Sections: 1-7
Effective Date: 10/10/94

SUBJECT: Family Medical Leave

1. Purpose. The purpose of this regulation is to clarify and standardize City leave of absence policies for eligible employees entitled to Family Medical leave.
2. Authority. Personnel Rule 18; California Family Rights Act of 1993; Federal Family and Medical Leave Act of 1993.
3. Scope. This policy applies to all employees that have worked 1,250 hours or more during the 12-month period immediately preceding the commencement of the leave.
4. Definitions.
 - 4.1 "12-Month Period" - means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
 - 4.2 "Child" - means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.
 - 4.3 "Serious health condition" - means illness, injury impairment, or physical or mental condition that involves:
 - 4.3.1 Any period of incapacity resulting in treatment in connection with a hospital, hospice or residential medical care facility;
 - 4.3.2 Any period of incapacity requiring absence from work of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider;
 - 4.3.3 Continuing treatment of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or
 - 4.3.4 Prenatal care by a health provider.
 - 4.4 "Continuing treatments" means:
 - 4.4.1 Two or more visits to a health care provider;
 - 4.4.2 Two or more treatments by a health care practitioner (e.g. physical therapist) on referral from, or under the direction of a health care provider; or

4.4.3 A single visit to a health care provider that results in a regimen of continuing treatment under the supervision of the health care provider (e.g. medication therapy).

5. Policy.

5.1 Reasons for Family Medical Leave. Leave is only permitted for the following reasons:

5.1.1 The birth of a child or to care for a newborn of an employee; or

5.1.2 The placement of a child with an employee in connection with the adoption or foster care of a child; or

5.1.3 Leave to care for a child, parent or spouse who has a serious condition;
or

5.1.4 Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

5.2 Employee Eligibility Criteria

5.2.1 Has been employed for at least 12 months; and

5.2.2 Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

5.3 Amount of Family Medical Leave

5.3.1 Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period. Family Medical Leave is without pay unless paragraph 5.5 applies.

5.3.2 An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires 12 months after the birth or placement.

5.3.3 Family Medical Leave may be taken intermittently or on a reduced leave schedule. Leave taken for childbirth, adoption or foster care may be taken intermittently or on a reduced leave schedule only with employer approval.

5.3.4 Husband and wife both employed by the City are entitled an aggregate total of 12 weeks in a 12 month period for the birth or placement for adoption or foster care of the employees' child, or to care for a parent with a serious health condition. This limitation does not apply to leave taken to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his or her own serious illness.

5.4 Employee Benefits While on Leave. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. The City's group health benefits under Family Medical Leave shall be defined as medical, dental and vision plans. However, employees will not automatically continue to be covered under the City optional non-health benefits, i.e., life insurance, AD&D, etc. Employees may choose to continue such coverage by payroll deductions, if the employee

is on a paid leave status; or by direct payment to the City if on an unpaid leave status. Employee contribution rates are subject to any rate change that occurs while the employee is on leave. If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period; unless the employee does not return because of the continuation, recurrence or onset of a serious health condition, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.).

5.5 Substitution of Paid Accrued Leaves

5.5.1 If an employee requests Family Medical leave for any reason permitted under this policy, he/she must use appropriate accrued leaves with pay (vacation, compensation time, sick leave) in connection with Family Medical leave.

5.5.2 If an employee requests leave for his/her own serious health condition, in addition to exhausting accrued sick leave, the employee must also exhaust other accrued leave.

5.5.3 Sick leave of three consecutive days or more shall be considered as family leave, unless due to pregnancy disability.

5.6 Medical Certification

5.6.1 Employees who request leave for their own serious health condition, or to care for a child, parent or a spouse who has a serious health condition, must provide written certification from the health care provider of the individual requiring care. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of his/her position.

5.6.2 If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen by the City. If the second opinion is different from the first, the City may require the opinion of a third occupational medicine provider jointly approved by the City and the employee. The opinion of the third provider will be binding. The cost of second and third opinions shall be paid by the City.

5.6.3 If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition; the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the only viable option is through an intermittent or reduced leave schedule.

5.7 Employee Notice of Leave. Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay granting of the leave until it can, in its discretion, adequately cover the position.

5.8 Reinstatement Upon Return From Leave

5.8.1 Upon expiration of leave, an employee is entitled to be restored to the position of employment held when the leave commenced, or to an equivalent position.

5.8.2 As a condition of restoration of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of restoration.

5.9 Required Forms

Employees/Department Head must fill out the following applicable forms in connection with leave under this policy:

5.9.1 "Request for Family or Medical Leave Form" prepared by the City to be eligible for leave;

5.9.2 Medical certification - either for the employee's own serious health condition or for the serious health condition of a child, parent or spouse.

5.9.3 Authorization for payroll deductions for benefit plan coverage continuation; and

5.9.4 Fitness for duty to return from leave form.

6. Pregnancy Disability Leave

6.1 Pregnancy disability leave is not to be credited as time against family medical leave.

6.2 Female employees are entitled to pregnancy disability leave of up to four months.

7. Responsibilities

7.1 Employee

7.1.1 Provide a written request 30 days in advance.

7.1.2 Complete all relevant forms (copies attached).

7.1.3 Provide return to work date or request extensions.

7.2 Department

7.2.1 Determine employee eligibility.

7.2.2 Discuss impact and determine need for replacement or alternative
schedule.

7.2.3 Obtain medical certifications.

7.2.4 Process employee request.

7.3 Personnel

7.3.1 Approve or reject request.

7.3.2 Retain position or comparable position for employee to return.

REQUEST FOR FAMILY/MEDICAL LEAVE

Employee Name (Print): _____ Date of Request: _____

Department: _____ Position Title: _____

Hire Date: _____

I request a Family/Medical Leave for the following reason (check one):

- _____ A. The birth of a child and/or in order to care for such a child.
- _____ B. The placement of a child for adoption or foster care.
- _____ C. In order to care for an immediate family member because such family member has a serious health condition. Circle one: CHILD - SPOUSE - PARENT (Must submit "Physician Certification" within 15 days)
- _____ D. Employee's own serious health condition that makes the employee unable to perform the functions of his/her position (Must submit "Physician Certification" within 15 days)

METHOD OF LEAVE REQUESTED

- _____ A. Consecutive Leave
- _____ B. Intermittent or Reduced Leave Schedule (Specify Schedule Below)

Date leave is to begin: _____ Expected duration of leave _____

If the duration of my family/medical leave (total of paid and unpaid time) does not exceed 12 weeks, I will be returned to my same, equivalent or comparable position. I understand that if my family/medical leave should exceed 12 weeks I will be returned to my same, equivalent or comparable position, only if available. If my same, equivalent or comparable position is not available, I understand that I may be terminated.

Date

Employee Signature

