

Rule V-11 Family and Medical Leave

A. The Family and Medical Leave Act requires employers to provide up to twelve (12) weeks (or up to 26 weeks for military caregiver leave to care for a covered service member with a serious injury or illness) of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons for each twelve (12) months of employment. The Personnel Department shall be responsible for advising employees of their ability to qualify for Family and Medical Leave. To this end, the Personnel Department shall cause to be continually posted the notice Your Rights under the Family and Medical Leave Act of 1993 or any successor document outlining the rights and obligations of employees and employers under the Act.

B. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the six reasons listed below:

- 1) The birth of a child and in order to care for that child.
- 2) The placement of a child for adoption or foster care and to care for the newly placed child.
- 3) To care for a spouse, child or parent (but not a "parent in-law") with a serious health condition (described below).
- 4) The serious health condition (described below) of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

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 that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Employees with questions about what illnesses are covered under this FMLA policy or under the City's sick leave policy are encouraged to consult with the Director of Human Resources.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the City may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

5) Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty.

An employee whose spouse, son, daughter, or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

- Short notice deployment
- Military events and activities
- Child care and school activities
- Financial and legal arrangements
- Counseling
- Rest and recuperation
- Post-deployment activities, and
- Additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

6) Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran.

Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

C. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The City will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes FMLA leave, the City will compute the amount of FMLA leave the employee has taken under this policy in the last 12 months and subtract it from the 12

weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the City will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the City and each wishes to take leave for one of the FMLA circumstances (1) through (5), the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the City and each wishes to take leave for FMLA circumstance (6), the husband and wife may only take a combined total of 26 weeks of leave.

D. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition must use all accrued sick leave prior to using paid accrued vacation or accrued compensatory time. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

An employee who is taking FMLA leave because of the serious health condition of a family member or other FMLA circumstances has the option of using accrued vacation leave, accrued compensatory time, or leave without pay prior to consideration being given for paid accrued sick leave.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, if an employer provides six weeks of pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the employee's 12-week period. The employee then has the option of using leave without pay or accrued leave as described earlier ~~appropriate before being eligible for unpaid leave~~ for what remains of the 12-week period. An employee who is taking leave for the ~~adoption or care or adoption of a child~~ has the option of unpaid leave, or if the employee chooses to use paid leave, he/she must use all paid accrued vacation and accrued compensatory time prior to consideration being given for paid accrued sick leave. ~~must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.~~

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and compensatory leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all accrued vacation, accrued compensatory time, before using accrued sick leave (accrued sick leave may be used if the leave is to care for the military service member who is ill or incapacitated) prior to being eligible for unpaid leave.

E. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year), or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the City and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the City before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

F. Reservation of Rights

The City of Hammond reserves the right to evaluate and determine whether requests for leave pursuant to the Family and Medical Leave Act qualify. Employees shall provide thirty (30) days advance notice of foreseeable need for such leave. The City shall refer to the regulation, the notice, and other publications from the Department of Labor to comply with the Act, and shall provide employees with a copy of each document, if desired. The procedures below outline our process for compliance with the Act.

G. Job Protection and Benefits

Upon return to work from Family and Medical Leave, employees shall be returned to the same or an equivalent job and shall not lose any employment benefit that accrued prior to the start of the leave. Employees' health insurance benefits and other applicable insurance benefits, if any, shall be maintained as though the employees continually worked. ~~The employee may use the benefits of accumulated compensatory time, vacation leave or sick leave. However, sick leave is payable only upon the employee's return to work as a full-time employee. Failure to return to full-time employment will subject the employee to repayment of any sick leave used.~~

If the 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 a 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.

H. Personnel Department Obligations

The Personnel Department shall maintain posted notice of family and medical leave with other legal notices, review family and medical leave as a part of new employee orientation, request documentation of need for leave from the health care provider, and shall determine if the leave is covered by the Family and Medical Leave Act. If covered, the Personnel Department shall be obligated to perform the following:

- Provide employee with a copy of the notice Your Rights under the Family and Medical Leave Act of 1993 and a copy, if desired, of other Department of Labor documents used to determine entitlement.
- Review the policy and applicable requirements from the regulation, including:
 - a. advance notice,
 - b. alternative schedules,
 - c. other health care provider documentation at our expense, and
 - d. documentation from health care provider of employee fitness to return to work.
- Determine employee eligibility for Family and Medical Leave, based on the 12 months of employment preceding the request for leave, and determines if employee is a Key Employee as defined by the act.
- Determine if alternative schedules for leave may be discussed with employee, and determines if Key Employee shall be reinstated.
- Determine with employee the appropriate amounts of leave, based on the medical documentation. Increments of leave shall be one of: A. One block of time of more than three days B. Intermittent blocks of time of more than three days; or C. Adjustments to work schedule in increments of days, half days, and quarter hours.
- Determine the expected date of return from leave and specifies the periodic reports on status required of the employee.
- Outlines employee's payment options for continuing health insurance and other insurance benefits during leave, including employee's obligation to reimburse the City if the employee does not return to work.

- Summarize employee's options in a memorandum, and provides copy for employee.
- Review memoranda, selects from options, and signs the memorandum, keeping a copy.
- Cooperate in obtaining additional medical documentation.
- Provide the required status reports.
- Review status reports as needed with employee to determine if leave may be shortened or extended.
- Document the amounts of leave for purposes of complying with the Act and for determining eligibility for future leave.

I. Payroll Office Obligation. In the event an employee qualifies under the Family and Medical Leave Act, the payroll office shall pay the employee portion of medical and other insurance as scheduled, or notify Personnel if payment shall not be made.

J. Employee Obligation. In the event an employee qualifies under the Family and Medical Leave Act, the employee shall be responsible for confirming the date of return in advance as follows:

- One day in advance if leave is less than five days
- Three days in advance if leave is from six to ten days, and
- Five days in advance if leave is more than ten days.

Furthermore, the employee shall provide documentation from health care provider of employee's ability to perform the essential functions of the job.

Rule V-22 Sick Leave

- A. Paid sick leave is provided to full-time non-classified employees and non-enforcement civil service employees, hereinafter “qualifying employees,” for tending to illness without loss of pay when the qualifying employee was scheduled to work at the time of the illness. Qualifying employees shall receive their regular straight time pay up to the maximum accrued at the time of illness. Paid sick leave time accrued by qualifying employees may be used for the following:
- i) bona-fide illness of self, including but not limited to visiting doctors, dentists or other practitioners in their offices;
 - ii) tending to a serious health condition suffered by the employee’s spouse, child, parent, or sibling. If another person can attend to the needs of an ill family member, the employee is expected to fulfill his or her duties as an employee of the City.
 - iii) family medical leave (**Refer to Rule V-11, Family and Medical Leave**)