



## **FAMILY AND MEDICAL LEAVE POLICY**

### **I. STATEMENT OF POLICY**

The City of Sacramento ("City") will provide family and medical leave for eligible employees as required by state and federal law. This policy sets forth rights and obligations with respect to such leave.

### **II. DEFINITIONS**

- A. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken.
- B. "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis (in place of a parent for legal purposes) who is either:
  - 1. Under 18 years of age; or
  - 2. Over 18 years of age, and incapable of self-care due to mental or physical disability.
- C. "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- D. "Spouse" means a husband or wife or registered domestic partner as defined or recognized under California law or City Code section 14.1.10(a).
- E. "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves:
  - 1. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the Serious Health Condition, treatment involved, or recovery there from) or any subsequent treatment in connection with such inpatient care; or
  - 2. Continuing treatment by a Health Care Provider. A Serious Health Condition involving continuing treatment by a Health Care Provider includes any one or more of the following:

- a. A period of incapacity (i.e., inability to work, or perform other regular daily activities due to the Serious Health Condition) of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
  - (1) Treatment two or more times by a Health Care Provider; or
  - (2) Treatment by a Health Care Provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the Health Care Provider.
- b. Any period of incapacity due to pregnancy or for prenatal care. (This condition qualifies for FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to Pregnancy Disability Leave.)
- c. Any period of incapacity or treatment for such incapacity due to a chronic Serious Health Condition. A chronic Serious Health Condition is one which:
  - (1) Requires periodic visits for treatment by a Health Care Provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
  - (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a Health Care Provider.
- e. Any period of absence to receive multiple treatments (including any period of recovery there from) by a Health Care Provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

F. "Health Care Provider" means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. An individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a Serious Health Condition;
3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law;
4. Nurse practitioners, nurse-midwives and licensed clinical social workers who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law;
5. Any Health Care Provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a Serious Health Condition to substantiate a claim for benefits.
6. Other Health Care Providers as identified by the City.

G. Pregnancy Disability Leave (PDL) means a California leave of absence for qualified disabled pregnant employees described in California Government Code Section 12945. Provides up to four (4) calendar months or eighty-eight (88) work days of leave.

H. California Family Rights Act (CFRA) leave means that leave of absence for qualified employees described in California Government Code 12945.2.

I. Family and Medical Leave Act (FMLA) leave means that leave of absence for qualified employees described in 29 U.S.C. Sections 2601 et seq.

### III. REASONS FOR FMLA/CFRA LEAVE

Employees requesting FMLA/CFRA leave must state the reason for the leave. The City may designate any qualified leave as FMLA and/or CFRA, even if the employee doesn't request it. FMLA/CFRA leave is permitted for the following reasons:

A. The birth of the employee's child or to care for a newborn of the employee;

- B. The placement of a child with the employee in connection with adoption or foster care;
- C. To care for a child, parent or a spouse who has a Serious Health Condition, when medically necessary; or
- D. A Serious Health Condition that makes the employee unable to perform the functions of his/her position.

#### **IV. EMPLOYEES ELIGIBLE FOR LEAVE**

Any employee is eligible for leave if the employee:

- has been employed by the City for at least 12 months; and
- has worked for the City for at least 1,250 hours during the 12-month Period immediately preceding the commencement of the leave (Includes regular and overtime hours. Does not include any absences, paid or unpaid, e.g., vacation, sick leave, holidays, jury duty or other absences).

#### **V. AMOUNT OF LEAVE**

- A. Eligible employees are entitled to a total of 12 workweeks of leave (672 hours for suppression employees) in a 12-month period.
- B. Minimum Duration Of Leave
  - 1. If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration, on any two occasions.
  - 2. If leave is requested to care for a child, parent, spouse or the employee him/herself with a Serious Health Condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy shall apply.
- C. Continuous Or Intermittent Leave for Serious Health Condition Of Employee Or Family Member

Leave may be taken on a continuous basis, intermittently, or on a reduced work schedule, as is medically necessary.

D. Spouses Both Employed By The City

In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which they are entitled is limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). This limitation does not apply to any other type of leave under this policy.

## VI. REQUIRED USE OF PAID ACCRUED LEAVES

FMLA/CFRA leave is unpaid. FMLA and CFRA authorize an employer to require that employees use paid accrued leaves while on family or medical leave. The City requires an employee to concurrently use paid accrued leaves while using FMLA/CFRA leave, and also requires an employee to use FMLA/CFRA leave concurrently with a non-FMLA/CFRA leave that is FMLA/CFRA-qualifying.

A. City Requires An Employee To Use Paid Leaves While Using FMLA/CFRA Leave - Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave, with three exceptions:

1. Employees are not required to use accrued compensatory time off earned in lieu of overtime (CTO) pursuant to the Fair Labor Standards Act.
2. Employees may retain a maximum of forty (40) hours total accumulation of all types of leave (excluding CTO).
3. Employees are not required to use paid sick leave when leave is taken due to the Serious Health Condition of a family member. Employees may use up to ten (10) days of paid sick leave per year to care for a family member.

B. City Requires an Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves:

If an employee takes a leave of absence for any reason that is FMLA/CFRA qualifying, including a serious injury on the job, the City may designate that leave as FMLA/CFRA leave. Exception: Peace officers and firefighters who are on leave pursuant to Labor Code § 4850 will not be charged with CFRA leave.

C. City's And Employee's Rights: If An Employee Requests Paid Or Unpaid Leave Without Mentioning Either A Serious Health Condition or FMLA/CFRA:

If an employee requests to utilize accrued vacation leave or other accrued paid time off or to take an unpaid leave without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the City denies the employee's request for non-FMLA/CFRA leave and the employee subsequently provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City will require a medical certification.

## **VII. EMPLOYEE BENEFITS WHILE ON LEAVE**

While on unpaid FMLA/CFRA leave, employees will continue to be covered by the City's group health and dental insurance to the same extent that coverage is provided while the employee is on the job. Employees must pay for other benefits (e.g., life insurance or long term disability insurance).

Employees who normally pay a portion of the premiums for medical and/or dental insurance will continue to be responsible for those payments during the FMLA/CFRA leave. Employees may make the appropriate contributions to continue other benefits by direct payments made to these plans. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted, the City will have the right to recover its share of health plan premiums for the entire leave period from the employee, unless the employee does not return because of the continuation, recurrence, or onset of a Serious Health Condition of the employee or his/her family member that would entitle the employee to leave, or because of circumstances beyond the employee's control. The City may recover premiums through deduction from any sums due the employee (e.g. unpaid wages, vacation pay, etc.).

## **VIII. EMPLOYEE NOTICE OF LEAVE**

Although the City recognizes that emergencies arise that 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. If the employee's need is for a planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the City. 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 to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. When necessary, notice may be given verbally, if followed promptly by a written request. 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 the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

## **IX. MEDICAL CERTIFICATION**

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. The certification shall include the date on which the Serious Health Condition commenced and the probable duration of the condition.

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 work at all or is unable to perform the essential functions of his/her position. If the leave is requested because of a family member's Serious Health Condition, the certification shall include a statement that the Serious Health Condition warrants the participation of the employee to provide care and an estimate of the duration of, and time needed for, such care.

### **A. Time To Provide A Certification**

When an employee's leave is foreseeable, at least 30 days advance notice is required, and the employee must provide a medical certificate before the leave begins. When this is not possible, the employee must provide certification to the City within 15 calendar days after the City's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

### **B. Consequences For Failure To Provide An Adequate Or Timely Certification**

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to remedy any such deficiency. If an employee fails to provide medical certification within the time frame established by this policy, the City may delay the taking of leave until the required certification is provided.

### **C. Verification of Certification For Employee's Own Serious Health Condition**

If the City has reason to doubt the validity of a certification for the employee's own Serious Health Condition, the City may require a medical opinion of a second Health Care Provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care providers' opinions.

#### D. Intermittent Leave Or Leave On A Reduced Work Schedule

If an employee requests leave intermittently (a few days or hours at a time) or a reduced work schedule to care for an immediate family member with a Serious Health Condition, or due to the employee's own 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 need can best be accommodated through an intermittent or reduced work schedule.

### X. REINSTATEMENT UPON RETURN FROM LEAVE

#### A. Right To Reinstatement

FMLA and CFRA provide for reinstatement to the same department and classification if the employee returns to work at the end of the 12-week (or shorter) leave. For positions covered by the Civil Service Rules, Rule 10.6 may provide for reinstatement after a longer leave.

Employees who use both Pregnancy Disability Leave and CFRA leave within a twelve (12) month period in accordance with this policy will have a right to combined medical pregnancy disability and family care leaves of absence, including paid and unpaid, not to exceed seven (7) months (four calendar months plus twelve weeks) with the right to return to the same department and classification.

**NOTE:** SEE ATTACHMENTS FOR TIMELINES OF CONCURRENT AND CONSECUTIVE LEAVE BY TYPE.

The employee has no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been working continuously during the FMLA/CFRA/PDL period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

#### B. Employee's Obligation To Periodically Report On His/Her Condition

Employees may be required to decertify periodically their eligibility for FMLA/CFRA leave, but not more than once every 30 days, and to report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

C. Return to Work Certification

As a condition of returning to work, an employee whose leave was due to the employee's own Serious Health Condition, which made the employee unable to perform his/her job, must obtain and present certification from the Health Care Provider that the employee is able to resume work.

D. Reinstatement Of "Key Employees"

The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City) if denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on that basis at the time the employer determines that such injury would occur.

**XI. REQUIRED DOCUMENTATION**

Employees must submit the following documentation in connection with leave under this policy:

- "Request For Family or Medical Leave Form" provided by the City. Employees will receive a written City response to their request that will set forth terms and conditions of the leave;
- Medical certification either for the employee's own Serious Health Condition or for the Serious Health Condition of a child, parent or spouse;
- Medical Return to Work certification, if required

**SUMMARY**  
**THE FAMILY AND MEDICAL LEAVE ACT (FMLA)**  
**AND**  
**THE CALIFORNIA FAMILY RIGHTS ACT (CFRA)**

**1. WHAT ARE FMLA AND CRFA?**

*FMLA and CFRA are laws, federal and state respectively, that provide employees the right to a leave of absence with continuation of health benefits and guaranteed return to department and classification last held at the end of leave because of the employee's serious health condition, a family members' serious health condition requiring care by the employee, or bonding with a new child.*

**2. WHAT TYPES OF LEAVE QUALIFY FOR FMLA/CFRA PROTECTIONS?**

- a. Employee's serious health condition*
- b. Serious health condition of a child, spouse, or parent requiring care by the employee*
- c. Birth of child or placement of foster/adopted child.*

**3. WHO IS ELIGIBLE?**

*Any employee (Career and Non-Career) who has worked for the City for at least one year, and has worked at least 1,250 hours during the 12 months immediately preceding the requested leave is eligible for FMLA/CFRA leave. Hours on paid or unpaid leave do not count when determining whether the employee has worked 1,250.*

**4. WHAT IS THE AMOUNT OF LEAVE FOR FMLA?**

*Eligible employees are entitled to a total of 12 workweeks of leave (672 hours for suppression employees) in a 12-month period.*

**5. DO CHRONIC ALIMENTS QUALIFY FOR FMLA/CFRA LEAVE?**

*Chronic ailments such as asthma may qualify an employee for FMLA/CFRA leave, even if the absences do not exceed one day. Personnel Coordinators who are aware of employees who are absent on an intermittent basis due to a chronic condition should contact the Citywide Leave Coordinator to determine whether the absences should be designated as FMLA/CFRA leave.*

**6. DOES THE CITY REQUIRE ITS EMPLOYEES TO USE PAID LEAVE DURING FMLA/CFRA LEAVE?**

*Yes, however, each employee may retain up to 40 hours of sick leave or other accrued leaves, together with all accrued Compensating Time Off (CTO).*

**7. WHEN AN EMPLOYEE REQUESTS FAMILY/MEDICAL LEAVE, WHAT SHOULD THE PERSONNEL COORDINATOR DO?**

- *Complete Request for Leave of Absence Form*
- *Obtain medical verification, as required*
- *Contact the Citywide Leave Coordinator to review request and determine next steps*

**8. MAY THE CITY DESIGNATE LEAVE AS FMLA/CFRA EVEN IF THE EMPLOYEE DOES NOT REQUEST IT?**

*Any leave that qualifies for FMLA/CFRA protection may be so designated by the City, even if not requested by the employee. This may include sick leave taken for more than three consecutive calendar days.*

**9. HOW ARE BENEFITS HANDLED DURING FMLA/CFRA LEAVE?**

*There is no change in how the benefits are paid as long as the employee uses paid leaves. If the employee is on unpaid leave, the City continues to make its normal contribution toward the employee's medical and dental coverage (no cash back) and the employee must pay any additional amount. If the employee does not return to work, the City may recover its contributions from the employee.*

**10. HOW DOES FMLA/CFRA COORDINATE WITH CALIFORNIA'S PREGNANCY DISABILITY LEAVE?**

*Any woman who takes Pregnancy Disability Leave is also using FMLA leave at the same time. However, California law provides CFRA leave in addition to Pregnancy Disability Leave, so that twelve weeks of CFRA may be taken in addition to any time spent on Pregnancy Disability Leave. If any employee is eligible for City parental leave, that leave shall run concurrently with FMLA/CFRA or PDL.*

**11. WHO IS THE CITY'S CENTRAL RESOURCE ON FMLA/CFRA?**

*The Director of Human Resources will designate a Citywide Leave Coordinator. Currently, the designee is Marti Flores at 808-8566.*





Signature of Health Care Provider	Type of Practice
Printed Name of Physician	Telephone Number
Address	Date

**8. To be completed by the employee needing family leave to care for a family member:** State the care you will provide and an estimate of the period during which care will be provided, including a proposed schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

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A "**Serious Health Condition**" means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. Hospital Care

**Inpatient care** (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity<sup>2</sup> or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

(a) A period of incapacity<sup>2</sup> of **more than three consecutive calendar days** (including any subsequent treatment or period of incapacity<sup>2</sup> relating to the same condition), that also involves:

- (1) **Treatment<sup>3</sup> two or more times** by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or
- (2) **Treatment** by a health care provider on **at least one occasion** which results in a **regimen of continuing treatment<sup>4</sup>** under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to **pregnancy**, or for **prenatal care**.

4. Chronic Conditions Requiring Treatments

A **chronic condition** which:

- (1) Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
- (2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
- (3) May cause **episodic** rather than a continuing period of incapacity<sup>2</sup> (*e.g.*, asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision

A period of **incapacity<sup>2</sup>** which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receiving active treatment by, a health care provider**. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive **multiple treatments** (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, **or** for a condition that **would likely result in a period of incapacity<sup>2</sup> of more than three consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

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<sup>3</sup> Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

<sup>4</sup> A regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

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