



MEMORANDUM

TO: Mayor and Council
FROM: Mark Washington, Human Resources Director
DATE: June 14, 2013
RE: Proposed Changes to the Personnel Policies

This memorandum is in response to Resolution No. 20130606-047 which directed the City Manager to establish a paid parental leave policy for employees not covered by bargaining or meet and confer agreements. The attached document provides for proposed personnel policy changes and updates that:

- Establishes a Parental Leave benefit with the creation of a 30 workday paid leave policy for new parents to coincide with the eligibility period for the Family Medical Leave Act (FMLA).
- Updates the policy on Family and Medical Leave to align city policy with the federal laws covering any Qualifying Exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member (or has been notified of an impending call or order to active duty) in support of contingency operation; and to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the service member.

Please let me know if you have any questions.

C: City Manager
Deputy City Manager
Assistant City Managers
City Attorney
CFO

**Proposed Personnel Policies Changes to Section III.B.1.c relating to FMLA including the establishment of a new Parental Leave Benefit and insertion of language that aligns City policy with Federally Mandated Military Exigency and Military Caregiver Requirements
(Additions/Changes to policy underlined)**

c. Family and Medical Leave Policy

Employees who have been employed for at least twelve (12) months, and who have worked at least 1,250 hours during the preceding twelve month period are eligible for family and medical leave as required under the Family and Medical Leave Act (FMLA) of 1993. Except for those employees designated as “key employees,” employees will be returned to the same or an equivalent position upon their return from leave.

(1) Conditions

All eligible employees shall be granted family or medical leave consisting of unpaid leave, and when requested and appropriate, accrued sick and/or vacation leave, for a combined total of up to twelve weeks during the calendar year for the following reasons:

(a) Family Leave

- i.* the birth of the employee’s child and in order to care for the child;
- ii.* the placement of a child with the employee for adoption or foster care;

(b) Medical Leave

- i.* to care for a husband, wife, domestic partner, child or parent who has a serious health condition;
- ii.* a serious health condition that renders the employee incapable of performing the functions of his or her job.

c) Military Qualifying Exigency (Federal Law currently effective but not stated in policy)

- i.* for qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation as a military member in National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

d) Military Caregiver Leave (Federal Law currently effective but not stated in policy)

- i.* up to twenty-six (26) workweeks of leave consisting of unpaid leave, and when requested an appropriate, accrued sick and/or vacation leave for a combined total of up to 26-weeks during a single rolling forward 12-month period on the date the military caregiver leave is first used.

Military Caregiver FMLA can be used:

- To care for a covered servicemember, who is a current member of the Regular Armed Forces, National Guard or Reserves, with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee (military caregiver leave);
- For the employee, who is a veteran, undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding the date of the treatment.

Employees are eligible to take medical leave intermittently or on a reduced leave schedule only when medically necessary. Employees are not entitled to take family leave intermittently or on a reduced leave schedule unless approved by their Department Director. Any family leave must be taken within twelve months from the date of the birth or placement of a child for adoption or foster care.

If medical leave is requested, the employee may use accrued sick leave. After an employee's accrued sick leave has been exhausted, vacation leave may be used as sick leave upon request of the employee. If family leave is requested, the employee may use accrued vacation leave. For the birth of the employee's child and in order to care for the child, the employee may use accrued sick leave as allowed under Section III.B.1.a.(3)(e).

In the event that appropriate paid leave is exhausted, the remainder of the family or medical leave period will consist of unpaid leave. Any use of accrued leave under this section will count toward the 12 week annual family and medical leave allotment.

(2) Parental Leave Benefit (Propose Effective date 9/22/13)

Paid parental leave can be used after exhausting accrued leave benefits, as eligible per personnel policies. Parental Leave is available to mothers and fathers for the birth of the employee's child and the placement of a child with the employee for adoption or foster care without regard to the marital status or sexual orientation of the parenting individual. All employees in regular budgeted positions that qualify for FMLA leave can utilize the Parental Leave except those employees whose terms and conditions of employment with the City are negotiated through a collective bargaining agreement or a meet and confer agreement.

The paid parental leave benefit is up to 30 working days for a maximum of 240 hours (six weeks) for employees scheduled to work 40 hours per work week.

Parental Leave must be taken within the FMLA period associated with the date of the birth or placement of a child for adoption or foster care. Employees are not entitled to take parental leave intermittently or on a reduced leave schedule unless approved by their Department Director.

(3) Request for Leave

An employee should request leave in writing. An employee who intends to take **parental**, family or medical leave for planned medical treatment must submit a request to their Department Director at least thirty days before the leave is to begin. The request must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave. When it is not practicable under the circumstances to provide thirty days advance notice, the employee must give notice to their Department Director as soon as possible but no later than two business days after the employee learns of the need for the leave.

A Department Director may require satisfactory proof of the proper use of medical leave and may disallow medical leave in the absence of such proof.

(4) Benefits Coverage During Leave

While on family or medical leave, employees have the option to continue health and other benefits coverage under the same conditions that applied before the leave began. For coverage to continue, employees shall continue to pay premiums that they would be required to pay if they were actively at work. Failure to pay the premiums may result in loss of coverage.

(5) Return to Work

Other than key employees under certain circumstances, employees eligible for family and medical leave will be returned to their old position or to a position with equal pay, benefits, and other terms and conditions of employment. The City cannot guarantee that employees will be returned to their original jobs. The City will determine whether a position is an equivalent position.

This policy does not entitle any employee to any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken leave. For example, if during an employee's approved leave, the employee is terminated for reasons unconnected with a legitimate leave, or his/her position is eliminated through a reduction in force, the commitment to return the employee to a position with the City will cease at the time the employee is terminated or the position is eliminated. An employee on medical leave for five consecutive working days or more for his or her serious health condition must provide a Return to Work Release from the employee's health care provider before the employee will be permitted to return to work. The Return to Work Release must state that the employee is able to resume work.

(6) Failure to Return to Work

Employees who do not return to work after using all family or medical leave will be subject to immediate termination unless additional leave has been requested and granted. Employees should submit a written request for an extension of leave to the Department Director. This written request should be made as soon as the employee knows that he or she will not be able to return on the original return date.

An employee who fails to return to work after the expiration of the leave will be required to reimburse the City for the City's portion of health premiums paid during the leave, unless the reason the employee fails to return is a serious health condition which prevents the employee from performing his or her job, or if the circumstances are beyond the employee's control.