

Section Name: Human Resources Effective Date: June 15, 2009
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Policy Number: 003
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Subject: Family and Medical Leave Act

1. Purpose: The purpose of this policy under the Family and Medical Leave Act (FMLA) is to provide eligible employees with unpaid leave for certain family and medical reasons.
2. Statement of Policy: This policy sets out the employee's rights and obligations.
 - A. Employee Eligibility Criteria. To be eligible for FMLA leave, the employee must have been employed:
 - for at least one year (which need not be consecutive);
 - for at least 1250 hours during the 12 month period immediately preceding the commencement of the leave
 - B. Reasons for FMLA Leave. Subject to the provisions of this policy and the Family and Medical Leave Act, an eligible employee may take leave for any one, or a combination of, the following reasons:
 1. The birth of the employee's child or to care for the newborn child;
 2. The placement of a child with the employee for adoption or foster care or to care for the newly placed child.
 3. To care for the employee's spouse, child or parent (but not in-law) with a serious health condition; and/or
 4. To care for the employee's own serious health condition that makes the employee incapable of performing the functions of his or her job.
 5. A qualifying exigency (as defined by the Department of Labor) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
 6. Care of the employee's spouse, child, parent, or next of kin (nearest blood relative) who, as a result of injury or illness incurred in the line of duty while on active duty in the Armed Forces, (a) is undergoing medical treatment, recuperation, or therapy, (b) is otherwise in outpatient status, or (c) is otherwise on a temporary disability retired

list, provided that such injury or illness may render the service member medically unfit to perform duties of his/her office, grade, rank or rating.

C. Amount of Leave.

An eligible employee is entitled to up to 12 workweeks of unpaid leave during any 12-month period for reasons 1-5 above.

An eligible employee is entitled to up to 26 workweeks in a single 12-month period to care for an injured or ill service member (reason 6 above). Provided, however, leave to care for an injured or ill service member, when combined with other FMLA qualifying leave (reasons 1-5), may not exceed 26 weeks in a single 12 month period. This paragraph does not limit the availability of FMLA leave for reasons 1-5 during any other 12-month period.

D. Leave Period.

Reasons 1-5. The leave period for reasons 1-5 is a rolling 12-month period measured backward from the first day of the employee's leave.

Reason 6. The single 12-month leave period for reason 6 will be measured consistent with Department of Labor Regulations.

E. Birth, Care or Placement of Child. The right to FMLA leave for the birth, care and/or placement of a child into an employee's family may only be taken within the 12 months after the date of the birth or placement of the child.

F. Spouses Working for the City. If both spouses are employed by the City of Monroe, the combined leave for either birth, care and/or placement of a child, or to care for the employee's parent with a serious health condition shall not exceed 12 weeks. The combined leave for spouses working for the City is limited to 26 weeks when leave is to care for an injured or ill service member, or such leave is taken in combination with leave for either birth, care and/or placement of a child, or to care for the employee's parent.

G. Intermittent Or Reduced Work Schedule Leave.

1. Definitions. Under some circumstances, employees may take FMLA leave intermittently or on a reduced work schedule basis. Intermittent leave is leave taken in separate blocks of time. A reduced work schedule leave is a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday.

2. Birth, Care or Placement of a Child. In the case of unpaid leave for the birth, care or placement of a child, intermittent leave or working a reduced number of hours is not permitted, unless both the employee and the City agree.
 3. Medical Necessity. In the case of unpaid leave for serious health conditions, the leave may be taken intermittently or on a reduced hour's basis only if such leave is medically necessary.
 4. Military Family Leave. FMLA leave may also be taken intermittently or on a reduced hour's basis for reasons relating to a family member's Armed Forces active duty or when an employee needs to care for a family member who has incurred an injury or illness while on active duty.
 5. Temporary Transfer of Position. Where an employee requests intermittent leave or leave on a reduced hours basis, the City has the option, in its sole discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular job.
 6. Scheduling of Leave. If an employee takes leave intermittently or on a reduced work schedule basis, the employee must, if possible, attempt to schedule the leave so as not to unduly disrupt operations.
- H. Written Application. Employees may request FMLA leave by completing the City's Application for FMLA Leave form and submitting it to Human Resources. Employees can obtain one of these forms from Human Resources.
- I. Employee Notice Requirement.
1. Reasons 1 and 2. When the necessity for leave under reasons 1 and 2 is foreseeable based on an expected birth or placement, the employee must provide Human Resources with at least 30 days advance notice, before the leave is to begin, of the employee's intention to take leave, except that if the date the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.
 2. Reasons 3, 4 and 6. When the necessity for leave under reasons 3, 4 and 6, is foreseeable based upon planned medical treatment, the employee

- a) shall make a reasonable effort to schedule the treatment so as to not unduly disrupt operations, subject to the approval of the applicable health care provider; and
 - b) shall provide not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave, except that if the date of treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.
3. Reason 5. When the necessity for leave under reason 5 is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice as is reasonable and practicable.

J. Initial Documentation.

- 1. Family Member Status. When leave is taken to care for a family member, the City may require the employee to provide documentation or statement of family relationship (e.g., birth certificate or court document).
- 2. Medical Certification. An application for FMLA leave based on reasons 3, 4 or 6 must, in addition to the "Application for FMLA Leave" form, be accompanied by the applicable "Certification of Health Care Provider" form. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job. If the City receives a complete medical certification, it will limit its inquiries to the health care provider for clarification and authenticity.
- 3. Qualified Exigency (Reason 5). A request for leave for a qualified exigency (reason 5), must be supported by a certification issued at such time and in such manner as the Secretary of Labor may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee, shall provide, in a timely manner, a copy of such certification to the City.

K. Employee's Reporting Requirements.

- 1. Recertification and Periodic Reporting. The City may require an employee on FMLA leave to report periodically on his or her status and the intention of the employee to return to work, and also periodic recertification of the medical condition. The City will notify the employee in writing of its initial requirement for medical certification.

The City will advise the employee of its need for additional medical certification in writing.

2. Change in Return to Work Date. If the employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide Human Resources with reasonable notice of the employee's changed circumstances and new return to work date. If the employee gives Human Resources notice of the employee's intent not to return to work, the employee will be considered to have voluntarily resigned.
3. Fitness for Duty Certification. Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work.

FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner.

- L. Use of Paid and Unpaid Leave. Employees may elect to utilize any accrued unused sick leave, vacation, and personal leave benefits while on an FMLA Leave. If the employee exhausts his/her earned and accumulated sick leave, vacation, and personal leave benefits during the leave of absence, the remainder of the leave shall be unpaid.

The City is responsible for designating if paid leave used by the employee counts as FMLA leave, based on information provided by the employee.

- M. Designation of Leave. Human Resources will notify the employee that leave has been designated as FMLA leave, either upon the employee's request or, if the City believes the leave to be for an FMLA qualifying purpose. The City may provisionally designate the employee's leave as FMLA leave if the City has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified Human Resources of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify Human Resources within 2 business days of the employee's return to work that the leave was for an FMLA reason. In addition, if the City determines that an employee's leave was for an FMLA purpose, it may designate the leave as retroactive FMLA leave in appropriate circumstances in accordance with FMLA regulations.
- N. Maintenance of Health Benefits. During FMLA leave an employee is entitled to continue group health care benefits under the same conditions as if the employee was at work.

An employee on FMLA leave must continue making payments to maintain health care benefits. The employee and the City will determine, prior to commencement of the FMLA leave, the method for the employee to pay his or her share of the cost of health care benefits while on unpaid FMLA leave. If the employee's payment of health care benefits is more than 30 days late, the City may discontinue health care benefits upon notice to the employee.

The City's obligation to maintain health benefits under FMLA will cease if and when an employee informs the City of his/her intent not to return to work at the end of the leave period, or if the employee fails to return to work when the FMLA leave entitlement is used up.

- O. Return From FMLA leave. Upon return from FMLA leave, the City will place the employee in the same position the employee held before the leave or an equivalent position with equivalent pay, benefits and other employment terms and conditions.
- P. Limitations on Reinstatement. An employee is entitled to reinstatement only if he/she would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of a layoff, reduction in force or other legitimate business reason, the employee would not have been employed at the time job restoration is sought.

In addition, the City reserves the right to deny reinstatement to salaried, eligible employees who are among the highest paid 10 percent of the City's employees ("key employees"), if such denial is necessary to prevent substantial and grievous economic injury to the City's operations.

- Q. Failure to Return to Work Following FMLA Leave. If the employee does not return to work following the conclusion of FMLA leave, the employee will be considered to have voluntarily resigned. The City may recover, through deduction of accrued paid sick or vacation or other means, premiums it paid to maintain health insurance coverage for an employee who fails to return to work from FMLA leave, unless the reason the employee does not return is due to (1) the continuation, recurrence or onset of a serious health condition that entitles the employee to leave under reasons 3 or 4, or (2) the continuation, recurrence or onset of a serious injury or illness of the family member when leave was taken for reason 6, or (3) other circumstances beyond the employee's control.
- R. Reservation of Rights. The City reserves the right to exercise all rights accorded employers under the Act and Regulations, whether or not the policy specifically sets out those rights.

S. Conformance with FMLA. The foregoing provisions are intended to comply with the Family and Medical Leave Act of 1993, as amended, and with Regulations promulgated, from time to time, by the Department of Labor. To the extent that any provision conflicts with the Act or Regulations, the Act and/or Regulations shall control.

3. Definitions: None.
4. Application: This policy shall apply to all eligible employees in all departments of the City of Monroe.
5. Responsibility: The Human Resources Director or designee shall have the responsibility of implementing and overseeing the administration of this policy.
6. Administrative Procedure: None
7. Legislative History of Authority for Creation or Revision:

Adopted pursuant to action of the Monroe City Council, dated June 15, 2009 .