CITY OF CHICAGO FAMILY & MEDICAL LEAVE ACT POLICY

Effective Date: May 1, 2024

Policy Statement

This policy provides procedures for when eligible City of Chicago ("City") employees may take a leave of absence for specified immediate family and medical reasons pursuant to the requirements of the Federal Family & Medical Leave Act of 1993 ("FMLA").

Overview

The City will provide eligible employees up to twelve (12) workweeks of job- and benefit-protected leave in a twelve (12)-month period for one or more of the following reasons:

- For the birth and care of the employee's newborn child within one (1) rolling year of the birth of that child;
- For placement with the employee of a child for adoption or foster care within one (1) rolling year of the initial date of placement;
- To care for the employee's spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
- When an employee's serious health condition prevents them from performing the essential functions of their job, including incapacity due to pregnancy and for prenatal medical care; and
- Any qualifying exigency arising from the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty.

The City will provide eligible employees up to twenty-six (26) workweeks of Military Caregiver Leave in a twelve (12)-month period 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.

FMLA leave is unpaid, but other accrued paid leave time may be run concurrently with approved FMLA. Once sufficient information has been received to confirm the leave as FMLA-qualifying, neither the City nor its departments may delay the designation of leave under FMLA for an eligible employee with available entitlement. Employees may not waive, nor may their department induce them to waive, their prospective rights under FMLA. When the reason for leave is FMLA-qualifying and the family relationship (if applicable) is covered, eligible employees with available entitlement must exhaust their FMLA entitlement before taking any other applicable form of paid absence or unpaid leave offered by the City for this reason.

I. Definition of Terms

A. Spouse – A husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage.

B. Child – A biological, adopted, or foster child, stepchild, legal ward; or child of a person standing *in loco parentis*, who is either under age 18; or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. For purposes of Military Leave as defined under Section VII of this policy, the age of the child is not relevant.

C. Parent – A biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis* to the employee when the employee was a child. This term does not include parents-in-law.

D. *In Loco Parentis* – A person stands *in loco parentis* if that person provides day-to-day care or financial support for a child. Employees with no biological or legal relationship to a child can stand *in loco parentis* to that child and are entitled to FMLA leave. Employees are also entitled to FMLA leave to care for a person who stood *in loco parentis* to that employee when the employee was a minor.

E. Leave Year – The calendar year (January 1st through December 31st). Leaves will not be approved past December 31st of the current leave year without a new leave being opened, except in cases of Military Caregiver Leave to care for a covered current service member or recent veteran with a serious injury or illness.

F. Extenuating Circumstances – When an employee cannot participate in the leave of absence process due to their own mental or physical impairment (e.g. unconsciousness or coma, physical inability to communicate, barred from outside communication as part of treatment for substance abuse, etc.), the department shall review and may treat the employee's leave as having extenuating circumstances, which necessitate waiving foreseeability and granting additional extensions to paperwork due dates or reporting intermittent time as FMLA .

Such instances must be documented and certified by the employee's health care provider. A copy of the documentation must be kept by the department with the employee's medical leave record.

G. Health Care Provider – A "health care provider" is one of the following:

1. A doctor of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or

2. A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (with limitations) authorized to practice in the state and performing within the scope of their practice; or

3. A nurse practitioner, nurse-midwife, clinical social worker, or physician assistant authorized to practice in the state and performing within the scope of their practice; or

4. A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or

5. Any health care provider from whom the employer or the employer's group health plan's benefits manager will accept a medical certification to substantiate a claim for benefits.

If the employee or employee's family member is visiting another country, or a covered family member resides in another country, the department must accept a medical certification, including second and third opinions, from a health care provider who is authorized to practice in that country and is performing within the scope of their practice.

If a certification by a foreign health care provider is not in English, the employee must provide a written translation at the department's request.

H. Serious Health Condition – A "serious health condition" is one of the following:

1. An illness, injury, impairment, or physical or mental condition which involves inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or

2. A serious health condition involving continuing treatment by a health care provider which includes any:

    a. period of incapacity for more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition; or

    b. period of incapacity due to pregnancy, or for prenatal care; or

    c. period of incapacity or treatment due to a chronic serious health condition. A "chronic serious health condition" is one which requires periodic visits to a health care provider (or health care professional under the supervision of a health care provider); continues over an extended period of time; and may cause episodic rather than continuing periods of incapacity; or

    d. period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or

    e. absences to receive multiple treatments, including any period of recovery therefrom, by or on referral by, a health care provider for either a restorative surgery from an injury/illness, or a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated.

II. Eligibility

A. To be eligible for FMLA leave, an employee must meet both of the below criteria:

1. Be employed by the City for at least twelve (12) months.

    a. The 12 months do not need to be consecutive, so long as the 12 months occurred sometime in the last seven (7) years; AND

2. Have worked at least 1,250 hours during the previous 12-month period immediately preceding the start of leave.

    a. Hours worked does not include time off, such as sick leave, vacation time, or any other leave (paid or unpaid) where the employee is not actively working for the City with the sole exception of USERRA-covered military service.

III. Responsibilities of City Personnel

A. Department Heads

1. Each department head must ensure their department follows this policy. This includes but is not limited to designating a departmental Human Resources Liaison ("HR Liaison," "Liaison," or "HRL"), making efforts to ensure that the HR Liaison fulfills the duties established in this policy, and ensuring that proper FMLA procedures are consistently applied in the department.

2. Department heads must additionally undergo periodic training or re-training on this policy as provided by the Department of Human Resources ("DHR").

B. HR Liaison, Liaison, or HRL

The HR Liaison, Liaison, or HRL must:

1. Timely notify an eligible employee concerning their eligibility for FMLA leave and their rights & responsibilities under the FMLA within five (5) business days of the employee providing notice to the department of the need for leave.

2. Collect medical certifications and, if necessary, forward to department decision-maker for approval.

3. Timely notify an eligible employee that their requested leave is approved, denied, or if additional information is needed within five (5) business days of receiving the medical certification.

4. Timely notify the payroll administrator/timekeeper of how time taken under FMLA leave will be coded for each employee. When leave is to be taken intermittently, notification

should also include the approved frequency & duration of any certified treatment/ appointments and/or episodes of incapacity for the leave.

5. Timely notify an eligible employee's supervisor and others with a legitimate need to know that the employee is on FMLA leave, including the approved frequency & duration of any certified treatment/appointments and/or episodes of incapacity for an intermittent leave.

6. Ensure that everyone understands and abides by the confidentiality provisions of this policy.

7. Be a resource for employees and managers about FMLA.

8. Ensure their department consistently applies proper FMLA procedures.

9. Utilize approved leave materials created by the Department of Human Resources ("DHR") and/or seek approval from the DHR before creating and implementing any new leave materials

10. Monitor the use of intermittent FMLA to ensure that it is within the parameters of the applicable certification.

11. Utilize the recertification process as described in Section IV. F. below when employees on FMLA are outside the parameters of their medical certification or where circumstances indicate that recertification is appropriate.

12. Utilize the second and third opinion process as described in Section IV. C. below when there is reason to doubt the validity of the medical certification.

13. Follow the complaint process as described in Appendix A of this policy when employees report alleged violation of their FMLA rights.

14. Undergo periodic training or re-training as provided by the DHR.

C. Supervisors

Supervisors must:

1. Promptly report to their HR Liaison when an employee has requested time off for an FMLA qualifying reason either verbally, in writing, or due to a pattern of absences (intermittent or continuous).

2. Notify their HR Liaison if an employee has requested or taken leave that is outside of the expected frequency and duration of the approved leave request.

3. Maintain confidentiality around an employee's leave of absence information.

4. Maintain an environment of non-retaliation and non-interference with an employee's rights under the FMLA.

5. Undergo periodic training or re-training as provided by the Department of Human Resources ("DHR").

D. Employees

An eligible employee must:

1. Adhere to the guidelines and practices of this policy which includes, but is not limited to, providing proper notice to their HR Liaison before FMLA leave is to begin (when practicable) and providing the proper documentation and medical certification as requested.

2. Follow the established absence reporting procedures set forth by their department and/or the City.

3. Follow the complaint process as described in Appendix A of this policy to report any alleged violation of their FMLA rights.

E. DHR Compliance Officer

The DHR Compliance Officer must:

1. Conduct audits of FMLA leaves in each of the operating departments and provide reports to the appropriate department head of the audit findings.

2. Create, maintain, and manage all City of Chicago forms, templates, and training materials as outlined in this policy.

3. Conduct annual and new hire training for HR Liaisons regarding FMLA and various other leave of absence policies.

4. Serve as a resource to department heads and HR Liaisons that have questions about this policy, or the procedures described herein.

IV. Procedures

A. Requesting Leave

1. Employees must provide thirty (30) calendar days advance notice before FMLA leave is to begin if the need for the leave is foreseeable.

    a. When the leave is foreseeable and the employee fails to provide 30 calendar days advance notice, approval of the leave may be delayed until 30 days after the employee provided the notice.

2. If the need for leave is not foreseeable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, then the employee must give as much notice as is possible under the particular circumstances involved. Employees are expected to give notice within two (2) working days of learning of the need for leave, except in extenuating circumstances as defined in Section I.F.

3. The department shall backdate any approval of certified dates of leave no more than thirty (30) calendar days prior to the date of employee's notification or request being made to the department.

4. An employee can communicate the need for FMLA leave by contacting their HR Liaison. The request for leave may be verbal or in writing. An employee does not need to specifically mention FMLA when initially requesting a leave, but must explain generally why the leave is needed, as well as when and how much leave they anticipate taking.

5. Leave under the FMLA may also be triggered by a pattern of absences due to a qualifying leave reason.

    a. A pattern of absences may be in the form of intermittent absence for the same, related, or similar stated conditions; continuous absence of more than three (3) full, consecutive, calendar days with treatment; or a reduction to the employee's worked schedule.

6. Once an eligible employee with available entitlement communicates the need to take leave for an FMLA-qualifying reason, the dates are considered to be in a requested status and are provided provisional protection under the FMLA through the due date of complete and sufficient medical certification. Protection under the FMLA is revoked for any dates in a denied status. Dates of absence in a denied status may be open to discipline up to and including discharge, a full reduction in benefits, and a denial of use of any paid benefit time during the denied dates.

7. Once an eligible employee with available entitlement communicates the need to take leave for an FMLA-qualifying reason, neither the employee nor their department may decline the FMLA provisional protection for that leave unless the reason for leave is no longer valid (e.g., surgery or treatment is cancelled or rescheduled for a later date). In such cases, continuous or reduced schedule leaves may be cancelled. Intermittent leaves in requested status will be denied without documentation and approved intermittent leave will not be used by the employee.

B. Notice of Eligibility

1. Within five (5) business days after an employee has notified their department of the need for leave, the HR Liaison shall determine whether or not the employee meets the eligibility

requirements as outlined in Section II of this policy and issue a completed *Notice of Eligibility and Rights & Responsibilities* to the employee.

2. The department may not delay initiating the FMLA certification process, even if the employee would prefer that the department delay the leave process.

3. An employee who is eligible for FMLA leave must provide additional information, including a medical certification, if it is needed to determine whether the leave qualifies as FMLA.

4. If the employee is not eligible for FMLA, the HR Liaison will communicate all other available options to the employee using the *Notice of Eligibility*.

C. Medical Certification

1. If the FMLA leave is requested due to a serious health condition of the employee or the employee's spouse, child, or parent, the employee must submit a completed medical certification within fifteen (15) calendar days of the request for the leave. Failure to provide a complete and sufficient medical certification may result in the request for FMLA leave being denied, or partially denied, and the employee may face discipline up to and including discharge, a full reduction in benefits, and a denial of use of any paid benefit time during the denied dates. The employee is responsible for paying for any cost associated with completing a medical certification.

    a. A medical certification is considered "incomplete" if one or more of the ***applicable*** entries on the form have not been completed and "insufficient" if the information provided is vague, unclear, or non-responsive.

2. An employee is not required under this policy to make or attend an appointment with a health care provider for the sole purpose of having a medical certification completed unless the employee is required to undergo a second or third opinion certification. It may be the policy of a health care provider (or their office) to require an appointment for such certification to be completed. Except in the case of second or third opinions, the employee is solely responsible for the cost of any appointment or medical certification from a health care provider or their office.

3. If it is not practicable for the employee to return the medical certification by the given due date, despite the employee's good faith efforts, the employee should request and may be granted an extension of time to submit the medical certification. In such circumstances the employee should contact their HR Liaison, explain their situation, and request an extension prior to their paperwork due date passing.

a. The decision whether to grant an extension to certification due date is at the department's discretion and will be based upon the individual circumstances of the leave.

b. All approved extensions to certification due date begin on the calendar day after the last documented due date.

c. Departments must document all extension requests, decisions, and new certification due dates. This documentation must be placed in the employee's medical leave file.

4. If an employee fails to return their completed medical certification within the 15 calendar days and does not request & receive an extension from the department's HR Liaison before the expiration of the 15 calendar days, the request for FMLA will be denied until complete and sufficient documentation is received.

    a. Denied dates do not carry FMLA protection and may be subject to discipline up to and including discharge, a full reduction in benefits, and a denial of use of any paid benefit time during the denied dates.

    b. If complete and sufficient documentation is received after the due date, a denial for late paperwork will be applied to the employee's leave.

    c. The denial for late paperwork cannot be overturned except in extenuating circumstances where the employee's condition renders them unable to participate in the certification process that leads to the denial of dates.

5. If the medical certification provided by the employee is incomplete and/or insufficient to determine whether the FMLA applies to the requested leave, the HR Liaison will outline the additional information that is required in order to make the medical certification complete and sufficient. This notice will be provided to the employee with a blank copy of medical certification within five (5) business days of the department receiving the incomplete or insufficient certification. The employee will be given no less than seven (7) calendar days to provide this additional information. If the employee fails to provide this additional information within the time provided, the request for leave will be denied.

    a. If it is not practicable for the employee to return the medical certification within the given due date, despite the employee's good faith efforts, the employee should request and may be granted an extension of time to submit the additional information required to make the medical certification complete and sufficient. In such circumstances the employee should contact their HR Liaison, explain their situation, and request an extension.

i. The decision whether to grant an extension to certification due date is at the department's discretion and will be based upon the individual circumstances of the leave.

ii. All approved extensions to due date begin on the calendar day after the last documented due date.

iii. Departments must document all due date extension requests, decisions, and new certification due dates. This documentation must be placed in the employee's medical leave file.

b. If an employee fails to return the cured certification within the 7 calendar days and does not request & receive an extension from the department's HR Liaison before the expiration of the 7 calendar days, the request for FMLA will be denied until complete and sufficient documentation is received.

i. Denied dates do not carry FMLA protection and may be subject to discipline up to and including discharge, a full reduction in benefits, and a denial of use of any paid benefit time during the denied dates.

ii. If complete and sufficient documentation is received after the due date, a denial for late paperwork will be applied to the employee's leave.

iii. The denial for late paperwork cannot be overturned except in extenuating circumstances where the employee's condition causes an inability to participate in the certification process that leads to the denial of dates.

6. If there is reason to doubt the validity of the medical certification, the City may, at its own expense, require an employee to obtain a second medical certification from a health care provider of its choosing.

a. For the second opinion, the City is permitted to designate the health care provider; however, the provider may not be one that regularly contracts with the City.

b. If the first and second opinions differ, the City may require, at its expense, the employee to obtain a medical certification from a third health care provider who is approved jointly by the City and the employee. This third opinion shall be final and binding.

c. The City and the employee must each act in good faith to attempt to reach an agreement on whom to select for the third opinion provider. If the department does not attempt in good faith to reach an agreement, the City will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification.

d. The City will provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within five (5) business days unless extenuating circumstances prevent such action.

e. If the City requires the employee to obtain either a second or third opinion, the City must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions.

f. The City may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

7. A medical certification is not required for an employee's FMLA leave for parental bonding, to attend standard prenatal treatment/appointments, or to recover from routine childbirth. Medical certification must be provided for any non-routine leave requested for medical reasons prior to childbirth or following the routine period of recovery.

   a. A pregnant employee is entitled to intermittent leave for standard prenatal treatment/appointments: one time (1) per month up to twenty-eight (28) weeks of pregnancy, then one time (1) every two (2) weeks up to thirty-six (36) weeks of pregnancy, and then one time (1) every week until birth.

      i. This standard prenatal schedule may be requested and approved without a medical certification. All non-standard treatment/appointment schedules and/or any episodes of incapacity must be certified by an acceptable health care provider.

      ii. The employee must provide the estimated date of delivery when requesting the FMLA leave. Without this information, the leave cannot be opened and approved.

      iii. Following the birth of the child or children, the employee must notify their HR Liaison of the confirmed date of delivery as soon as practicable.

      iv. If prenatal or postpartum complications necessitate the need for additional leave time (continuous, intermittent, and/or reduced schedule frequencies), a complete and sufficient medical certification shall be required for approval of the additional leave time.

   b. Employees seeking parental leave to bond with their newborn child (not the birthing parent) must provide the estimated date of delivery. Following the birth of the child or children, the employee must notify their department of the confirmed date of delivery as soon as practicable.

i. Employees requesting parental leave to bond with their newborn child may not take FMLA leave prior to the birth of their child or children unless leave is required for their own serious health condition, the serious health condition of a covered family member, a qualifying exigency, or to care for an injured service member (current service member or recent veteran).

c. Employees seeking leave for parental bonding with a newly placed child or children in foster or adoption must provide the initial date of placement.

i. Employees who are adopting or fostering a newly placed child or children may take leave intermittently prior to the adoption or foster placement date if the employee is required to miss work in order to attend pre-placement meetings (court dates, physical examinations, meeting with an adoption agency, traveling for the adoption, etc.).

ii. A medical certification is not required for FMLA leave to bond with a child or children placed for adoption or foster care. However, the employee may be required to provide reasonable documentation to confirm the family relationship. Such documentation may take the form of a child's birth certificate, a court document, or a simple statement from the employee.

8. Once the HR Liaison has received a complete and sufficient medical certification, no additional information may be requested from the health care provider. However, the HR Liaison or a leave administrator may contact the health care provider to authenticate the medical certification by asking the health care provider if the information contained on the certification is accurate and the certification was completed or authorized by them or their office. Under no circumstances may the employee's direct supervisor contact the employee's health care provider.

D. Designation of Leave

1. Within five (5) business days of receiving enough information to determine whether the requested leave is FMLA-qualifying, the HR Liaison shall issue a *Designation Notice* to the employee indicating whether the FMLA absence is approved or denied.

2. The employee's department may not delay designating leave as FMLA-qualifying, even if the employee would prefer that the department delay the designation.

3. If the FMLA leave is approved or partially approved, the HR Liaison shall provide the *Designation Notice* including, if known, the amount of leave that is designated and counted against the employee's FMLA entitlement.

a. If the amount of leave is unknown at the time of the designation (e.g., the employee is taking intermittent leave), the employee may periodically request a report of how much

leave has been designated and counted against their FMLA entitlement, but the employee cannot make such a request more than once in a 30-day period and only if leave was taken in that period.

4. If the FMLA leave is denied, the HR Liaison shall provide that determination and communicate any other available options to the employee using the *Designation Notice*.

E. Return From Leave

1. An employee returning from a leave less than or equal to their entitlement under this policy will be restored to their former position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

2. An employee who fails to return to work at the expiration of their FMLA leave and with no additional requested or approved leave will be considered to have abandoned their position and may be subject to discipline up to and including discharge, a full reduction in benefits, and a denial of any further use of paid benefit time.

3. A return-to-work authorization will be required certifying the employee's ability to return to work from any continuous leave due to their own serious health condition. The return-to-work authorization must address the employee's ability to perform the essential functions of the employee's job. A return-to-work authorization is not required for FMLA leave taken for routine pregnancy and/or routine recovery from the birth of a child.

    a. Failure to submit the required return-to-work authorization may result in a delay in reinstatement and job restoration.

    b. The employee is responsible for paying for any cost associated with acquiring a return-to-work authorization.

4. A return-to-work authorization is not required for individual absences taken on an intermittent or reduced schedule leave, unless there is a reasonable belief that the employee's return to work presents a significant risk of harm to the employee or others. Such certification may be required up to once every 30 days.

5. Employees of the Chicago Fire Department and Chicago Police Department may also be required to submit to an examination by their department's Medical Section, provided the examination is job-related and consistent with operational necessity.

    a. The department may not deny or delay reinstating an employee who has been absent on FMLA leave pending an examination by the Medical Section.

    b. The employee may be required to submit to examination after reinstatement, including the first day of reinstatement.

6. Reasonable Accommodation

    a. If an employee attempting to return from leave presents a return-to-work authorization that indicates the employee has continuing medical restrictions that impact their ability to perform the essential functions of their job, the employee must request reasonable accommodation from the City's Disability Officer. The employee may not be returned to work until either the outcome of their accommodation request is finalized, or their restrictions have ended.

    b. The HR Liaison shall provide the forms to make a request for reasonable accommodation to the employee and shall notify the City's Disability Officer of their designee of the employee's pending return with restrictions by emailing disabilityaccommodations@cityofchicago.org with the employee's job title, proposed date of return, and restrictions, including the expected duration.

    c. In requesting reasonable accommodation, the employee should follow the procedures as outlined in the City of Chicago Reasonable Accommodation Policy.

7. Other Leave Options

    a. An employee who cannot return to work after exhausting their FMLA entitlement due to their own non-Duty Disability condition or the condition of a family member may request either an unpaid continuous Personal Disability Leave or an unpaid continuous Personal Business Leave under the Personnel Rules.

    b. An employee who exhausts their FMLA entitlement while on an intermittent or reduced schedule leave for their own condition may request reasonable accommodation from the City's Disability Officer pursuant to the procedures outlined in the City of Chicago Reasonable Accommodation Policy.

F. Recertification

1. An employee may be required to recertify the need for FMLA leave no more often than every 30 days from the date of last designation and only in connection with an absence by the employee. However, recertification may be required more often than every 30 days when:

    a. The employee requests an extension of the leave,

    b. The circumstances described by the previous certification have changed significantly, or

    c. The City receives information that causes it to doubt the employee's stated reason for the absence or continuing validity of the existing medical certification.

2. As part of the recertification process, the health care provider shall be provided with a record of the employee's absences and asked if the serious health condition and need for leave is consistent with the leave pattern. This information will also be provided to the employee and health care provider on the *Recertification Form*.

3. A department shall not require second or third opinions for recertification.

4. All of the same procedures described above in Section IV. of this policy apply to recertification.

G. Notice of Changed Circumstance

1. An employee must provide notice within two (2) days of a foreseeable changed circumstance when:

    a. they need to extend their FMLA leave;

    b. the need to add an additional frequency of leave; or

    c. the leave as originally requested is no longer necessary.

    If the changed circumstance is not foreseeable, the employee shall provide notice as soon as practicable.

V. Calculating FMLA Leave

A. When an employee takes leave for less than one (1) full workweek, the amount of FMLA leave used is determined as a proportion of the employee's usual and normal workweek schedule.

B. When an employee's schedule varies from week to week so much that is not possible to determine how many hours the employee would have worked during the week had they not taken FMLA leave, a weekly average is determined using the hours scheduled for the 12 months prior to the beginning of the leave. This average shall include any hours for which the employee took any type of leave.

C. Part-time employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the previous 12-month period will be granted FMLA leave on a pro-rata basis based on their usual and normal workweek schedule.

D. A husband and a wife who are employed by the City and are both eligible for FMLA leave may each use 12 weeks of FMLA leave.

E. When a holiday falls during a week in which an employee is taking the full week of FMLA leave, the entire week is counted as FMLA leave. However, when a holiday falls during a week when an employee is taking less than a full week of FMLA leave, the holiday is not

counted as FMLA leave unless the employee was scheduled and expected to work on the holiday and used FMLA leave for that day.

VI. Intermittent and Reduced Schedule Leave

A. An employee may take FMLA leave on an intermittent or reduced schedule basis to care for a sick spouse, child, or parent, because the employee is seriously ill and unable to work, due to a qualifying exigency, or to act as a military caregiver of a covered military member (current service member or recent veteran) who is seriously ill or injured.

B. Intermittent and reduced schedule leave is available to those employees on FMLA leave due to the birth of their child or a newly placed adopted or foster care child if the department agrees to the arrangement of taking intermittent leave.

a. An employee requesting intermittent or reduced schedule leave for parental bonding must provide the department with a proposed schedule of leave and engage with their department in an interactive process to come to a mutually agreeable arrangement of leave.

b. If there is mutual agreement, then the department shall include the agreed upon schedule in the designation of leave.

c. If the employee and the department cannot come to a mutual agreement, the employee shall have the right to take parental bonding on a continuous basis based on their entitlement to FMLA leave.

C. A request for an annual renewal for intermittent leave must be made no more than 30 calendar days prior to the end of the current leave year. Paperwork received prior to this time will be used only to open a new leave request for the current leave year or revise an already-open request in the current leave year.

D. Intermittent and reduced schedule FMLA may be taken in 15-minute blocks of time or more.

E. If an employee is unable to work mandatory overtime due to their intermittent or reduced schedule leave, the employee is to report any mandatory overtime that was scheduled but they were unable to perform. Only mandatory overtime that is missed due to an occurrence of FMLA leave will be counted against the employee's entitlement.

F. Employees are required to follow their department's established call-in procedure for all intermittent absences, late-ins, and early-outs. An employee on FMLA must also notify their department within seventy-two (72) hours of the beginning of the absence, late-in, or early-out to indicate the absence is related to their FMLA leave.

a. This notification may be as a separate call, email, letter, or time edit request subject to department work rules.

b. The notice must include the date employee notified their department, the amount of time taken, confirmation that the time was related to the employee's FMLA leave, confirmation of which leave the absence is connected to (where applicable), and designation of the absence reason (either treatment/appointment or episode of incapacity).

G. All of the same procedures described above in Section IV. of this policy apply to employees taking intermittent and reduced schedule leave.

VII. Military Family Leave

A. Qualifying Exigency Leave

1. An eligible employee may take up to twelve (12) weeks of FMLA leave when the employee's spouse, child, or parent who is a member of the Armed Forces (including the National Guard and Reserves) is on covered active duty or has been notified of an impending call or order to covered active duty.

2. Leave may be taken on a continuous, intermittent, or reduced schedule basis.

3. Covered active duty is duty during the deployment of the member with the Armed Forces to a foreign country (i.e., areas outside the United States, the District of Columbia, or any territory or possession of the United States). It also includes deployment to international waters.

4. The employee may use the time off for activities related to the family member's deployment. "Qualifying Exigencies" include:

   a. Short notice deployment issues (i.e., deployment within seven or fewer days of notice);

   b. Military events and related activities;

   c. Arranging alternative childcare and related activities arising from the active duty or call to active-duty status of a covered military member;

   d. Making or updating financial and legal arrangements to address a covered military member's absence;

   e. Attending counseling for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active-duty status of the covered military member;

f. Taking up to fifteen (15) calendar days of leave (beginning on the date the military member commences each instance of Rest and Recuperation leave) to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;

g. Attending post-deployment activities;

h. Care of military member's parent(s) who are incapable of self-care; and

i. Any other event that the employee and department agree is a qualifying exigency.

5. An employee requesting qualifying exigency leave must provide the following documentation to the department:

    a. A copy of the military member's active duty orders (or other official documentation issued by the military) which indicates the military member is on covered active duty or call to covered active duty status;

    b. A statement or description of the appropriate facts regarding the qualifying exigency;

    c. The approximate date on which the leave began (or will begin), and how long and/or how often leave will be needed; and

    d. The contact information for any meeting with a third party and a brief description of the purpose of the meeting

        i. Items B, C, and D may be fulfilled by completing the Certification of Qualifying exigency for Military Family Leave.

6. The same eligibility, notice, timing, designation, and return to work procedures explained above in Section IV of this policy apply to employees on Qualifying Exigency Leave. Recertification and second/third opinion processes do not apply to Qualifying Exigency Leave.

B. Military Caregiver Leave

1. An eligible employee may take up to 26 weeks of leave in a 12-month period to care for a covered servicemember with a serious injury or illness so long as the employee is the servicemember's spouse, child, parent, or next of kin.

    a. "Covered servicemember" is defined as either:

        i. A current servicemember of the Armed Forces, including a member of the U. S. National Guard or Reserves, who is undergoing medical treatment, recuperation,

or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

ii. A veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, and who was discharged within the previous five years before the employee takes military caregiver leave to care for the veteran.

b. The "single 12-month period" for military caregiver leave begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the calendar leave year established by the City for all other types of FMLA leave.

c. "Next of Kin" is defined as the nearest blood relative, other than the spouse, parent, or child, in the following order of priority:

i. A blood relative who has been designated in writing by the service member for purposes of FMLA military caregiver leave;

ii. Blood relatives who have been granted legal custody of the service member;

iii. Siblings;

iv. Grandparents;

v. Aunts and Uncles;

vi. First Cousins.

d. "Serious Injury or Illness" of a current service member is one that was incurred in the line of duty on active duty that may render the service member medically unfit to perform the duties of their office, grade, rank, or rating. A serious injury or illness also includes injuries or illnesses that existed before the service member's active duty and were aggravated by service in the line of duty on active duty.

e. "Serious Injury or Illness" of a veteran is an injury or illness that was incurred in the line of duty when the veteran was on active duty in the Armed Forces, including any injury or illness that resulted from the aggravation of a preexisting condition in the line of duty on active duty. The injury or illness may manifest itself during active duty or may develop after the service member becomes a veteran. A serious injury or illness of a veteran must be either:

i. A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of their office, grade, rank, or rating; or

ii. A physical or mental condition for which the veteran has received Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50% or greater and the need for care is related to that condition; or

iii. A physical or mental condition because of a disability or disabilities related to military service that substantially impairs the veteran's ability to work, or would do so absent treatment; or

iv. An injury for which the veteran is enrolled in the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers.

2. An eligible employee's FMLA leave entitlement is limited to a combined total of 26 weeks of FMLA for any qualifying reasons; the employee is entitled to no more than 12 weeks of leave for FMLA-qualifying reasons other than to care for an injured or ill service member. For example, an eligible employee may take 14 weeks of FMLA leave to care for an injured service member and 12 weeks of FMLA to care for a newborn, for a combined total of 26 weeks of leave.

3. Leave may be taken on a continuous, intermittent, or reduced schedule basis.

4. The same eligibility, notice, timing, designation, and return to work procedures explained above in Section IV. of this policy apply to employees on Military Caregiver Leave. Recertification and second/third opinion processes do not apply to Military Caregiver Leave.

VIII. Use of Benefit Time

A. Employees may, but are not required to, use their available accrued benefit time concurrently with any FMLA leave taken pursuant to this policy.

1. Employees who use their available accrued benefit time concurrently with their requested or approved FMLA leave will be paid their regular salary and will accrue continuous service time and additional benefit days while on paid status.

2. Employees may use their available accrued benefit time in 15-minute blocks of time or more so long as such benefit time is used concurrently with their requested or approved intermittent or reduced schedule FMLA leave.

3. Employees on any unpaid leave of more than 30 days, including unpaid FMLA leave, will not accrue continuous service time. Any month in which the employee was paid for at least 50% of the time shall be credited for purposes accruing vacation leave based on years of continuous service. Sick leave is granted on the first day of the month to any employee who is in a paid status.

4. If an employee substitutes paid leave for unpaid FMLA leave, the employee's paid leave counts toward their 12-week (or 26-week) FMLA entitlement and does not expand that entitlement.

IX. Paid Parental Leave and FMLA

A. The City offers paid leave following the birth, adoption, or foster of a child or children for employees under the City of Chicago Paid Parental Leave Policy. In order to receive the specified period of paid leave, employees must also be eligible for FMLA as described in this policy.

B. Eligible employees may receive the following paid parental leaves:

1. Up to a total of twelve (12) work weeks of paid parental leave for either the birth of the employee's child or children (to include the employee's children born using gestational surrogacy), or for the adoption or foster of a child or children by the employee; or

2. Up to eight (8) work weeks of paid leave for recovery from routine childbirth following either the employee's gestational surrogacy, stillbirth, or the loss of the employee's child shortly after delivery. Paid leave for any of these three reasons is only available to employees who are gestational surrogates or birthing parents who must recover from childbirth. If postpartum complications arise that require additional leave beyond the routine recovery period, the employee may receive up to a maximum total of twelve (12) work weeks of paid leave.

C. While these are separate leave policies, Paid Parental Leave and FMLA must run concurrently. In order to receive Paid Parental Leave, an eligible employee must request and be approved for bonding under FMLA pursuant to this policy.

X. Duty Disability Leave and FMLA

A. Duty Disability leave shall run concurrently with continuous FMLA leave, provided the employee is eligible for FMLA as described in this policy and Duty Disability leave is approved by the Department of Finance, Workers' Compensation division, or its designated third-party administrator.

1. If FMLA entitlement exhausts while the employee is on Duty Disability leave, has previously exhausted before the start of Duty Disability leave, or the employee is ineligible for FMLA, Duty Disability shall run alone.

    a. The Department's HR Liaison shall re-check the employee's eligibility for FMLA at the beginning of the new leave year if the employee is still on or requesting leave at that time.

b. If the employee is found to be eligible for FMLA in the new leave year, they are entitled to that year's twelve (12) weeks of FMLA leave, which will run concurrent to the leave through recovery or FMLA exhaustion, whichever occurs first.

2. Additional medical certification shall not be required for FMLA leave approval for as long as the employee is on an approved Duty Disability leave.

3. An employee whose Duty Disability leave has been denied or has ended but still requires a leave of absence for medical reasons shall be placed on FMLA leave provided they are eligible with available entitlement. The policies under Section IV. of this policy will apply.

   a. If an employee is not eligible for or has exhausted FMLA, they must request either the use of available accrued benefit time or be placed on unpaid Personal Disability Leave.

XI. Healthcare Benefits

A. During a requested and approved FMLA leave, an employee's health care benefits will be maintained so long as the employee continues to make their employee contribution as appropriate.

1. An employee who is using benefit time while on FMLA leave will be paid their regular salary and their required contribution toward Health Insurance Premiums will continue to be deducted from the employee's pay.

2. An employee who is on unpaid FMLA leave must pay the employee share of the Health Insurance Premiums.

   b. Once the Benefits Section of the Department of Finance is notified of an employee's unpaid leave, an invoice is sent to the employee's last known address.

   c. If an employee's Health Insurance Premium payment is more than thirty (30) days late, their coverage may be dropped unless the payment is received at the end of the thirty (30) day period. The City will provide written notice to the employee that the payment has not been received at least fifteen (15) days before coverage is to cease and advising that coverage will be dropped on a specified date at least fifteen (15) days after the date of the letter unless the payment has been received by that date.

   d. The City may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the City maintained health coverage by paying the employee's share after the premium payment is missed.

   e. If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the City shall restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not

been taken and the premium payment(s) had not been missed, including family or dependent coverage.

i. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

3. An employee who fraudulently obtains FMLA leave from the City is not protected by the FMLA's maintenance of health benefits provisions. In addition, the City will take all available appropriate disciplinary action against such employee due to such fraud, up to and including discharge, a full reduction in benefits, and a denial of use of any paid benefit time.

B. An employee who does not return to work after FMLA leave may be required to reimburse the City for any health care benefit expenses associated with insuring the employee during the FMLA leave.

XII. Restoration to Position

A. Employees on approved FMLA leave will be restored to the same position or an equivalent position at the conclusion of the 12 (or 26) workweeks of leave with the same pay, benefits, and other employment terms and conditions. The position either will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

B. 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 discharged for reasons unconnected with a legitimate leave, or their position is eliminated through a reduction in the workforce, the employee's rights to job restoration as dictated by FMLA regulations and the rights conferred by this policy will cease upon the effective date of the discharge or the layoff.

C. Pursuant to the Salary Resolution, Section B (7), any absence from City service on leave without pay for periods of excess of 30 days shall be deducted in computing continuous service. This provision applies to FMLA leaves unless the terms of a Collective Bargaining Agreement provide otherwise.

D. An employee who fraudulently obtains FMLA leave from the City is not protected by the FMLA's job restoration provisions. In addition, the City will take all available appropriate disciplinary action against such employee due to such fraud, up to and including discharge, a full reduction in benefits, and a denial of use of any paid benefit time.

XIII. Outside Employment

A. For employees who have received approval for outside employment, that approval shall be suspended during the time the employee is on FMLA leave due to their own illness or injury.

B. Employees who have been approved for intermittent FMLA leave shall not be allowed to work any approved outside employment on any calendar day when the intermittent leave is taken for their own condition.

C. A department head may grant an exception to this rule following receipt of a written request by an affected employee, where the employee has demonstrated that the nature of the outside employment is not inconsistent with the reason for the leave.

XIV. Confidentiality and Recordkeeping

A. Records and documents relating to medical certifications, recertification, medical histories and/or genetic information of the employee or the employee's family members should be maintained in separate files and treated as confidential medical records. These records should not be placed in the employee's personnel file.

B. Medical information may only be released as follows:

1. To human resources personnel and the employee's supervisors and managers, as necessary, who need to know the information in order to adjust the employee's job duties or responsibilities;

    a. Supervisors and managers shall not be provided copies of medical records or documentation as a part of this release.

2. To first aid and/or safety personnel if the employee's medical condition might require emergency treatment; or

3. To government officials investigating compliance with the FMLA.

XV. Collective Bargaining Agreements

A. To the extent that an employee is covered by a collective bargaining agreement with provisions that provide FMLA and other leave of absence rules and benefits which are different than those described in this policy, the provision of the collective bargaining agreement shall govern.

XVI. Statutory Guidelines

A. The terms of this policy are to be construed according to the definitions and guidelines of the Family and Medical Leave Act of 1993, 29 C. F. R. Part 825 et. seq.

B. The City prohibits interference or retaliation against an employee for exercising their rights under the FMLA. Similarly, the City prohibits misconduct, abuse, or fraudulent activity on the part of an employee in requesting, certifying, or taking leave.

C. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the City asks that employees not provide any genetic information when responding to a request for medical certification regarding their own serious health conditions under this FMLA Policy. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

D. There is an exemption to GINA's limitation on the disclosure of family medical history when an employee requests a leave of absence under the FMLA due to a family member's serious health condition. In such situations, all information necessary to make the medical certification form complete and sufficient under the FMLA should be provided.

XVII. Forms

The Department of Human Resources shall maintain the following forms on its intranet website:

1. ***Application for Family & Medical Leave (FMLA) Or Leave of Absence***
2. ***Request for a Leave of Absence (PER-73-A) form***
3. ***Certification of Health Care Provider for Employee's Serious Health Condition***
4. ***Certification of Health Care Provider for Family Member's Serious Health Condition***
5. ***Certification of Qualifying Exigency for Military Family Leave***
6. ***Certification for Serious Injury or Illness of Covered Service Member for Military Caregiver Leave***
7. ***Certification for Serious Injury or Illness of Veteran for Military Caregiver Leave***
8. ***Return to Work Authorization form***
9. ***Family & Medical Leave Time Edit form***

CITY OF CHICAGO FAMILY & MEDICAL LEAVE ACT POLICY

Appendix A

Overview

The City of Chicago ("City") takes the right of eligible employees' access to FMLA leave seriously. The City prohibits interference or retaliation against an employee for exercising their rights under the FMLA. Similarly, the City prohibits misconduct, abuse, or fraudulent activity on the part of an employee in requesting, certifying, or taking leave.

This appendix to the City of Chicago FMLA Policy ("policy") provides the procedure for when an employee lodges complaints against the City or their operating department ("department") for alleged violation of the employee's FMLA rights. Any supervisor or senior manager who is found to have engaged in retaliation or interference with an employee's FMLA rights may be subject to discipline, up to and including discharge. This appendix also provides the procedure for when the City or a department wishes to investigate an employee that is believed to have engaged in misconduct or fraudulent activity in requesting, certifying, or taking leave under the policy. Any employee who is found to have engaged in misuse, abuse, and/or fraudulent activity in requesting, certifying, or taking leave under the policy may be subject to discipline, up to and including discharge.

The City recognizes an employee's right to file a complaint with the U.S. Department of Labor or bring a private lawsuit against the City or a department. The procedures outlined below do not diminish or restrain an employee's right to file such a complaint or bring such a lawsuit. Where applicable, employees may additionally lodge complaints with the Diversity and Equal Employment Opportunity ("EEO") Division of the Department of Human Resources ("DHR"), the Office of Inspector General, the Board of Ethics, and/or Chicago Commission on Human Relations ("CCHR"). Employees represented under a Collective Bargaining Agreement ("CBA") may also bring a grievance pursuant to their CBA.

Procedures

I. Employee Complaints

1. Employee complaints must be brought to either the operating department's HR Liaison or labor relations supervisor.
2. Upon receiving a complaint, the department must immediately notify their contacts within the DHR and the Department of Law.
3. The department shall compile & review the allegations and any supporting information.
4. The department shall confer with the DHR and the Department of Law regarding the findings of their investigation and to review potential resolutions.

5. After conferring with the DHR and the Department of Law, the department shall make the final determination and notify the complaining employee in writing that their complaint has been closed along with any remedial action that directly affects the employee.
6. A copy of this notice must be sent to the DHR and Department of Law.

II. Investigations of Misconduct, Abuse, or Fraud

1. Where a department holds reasonable belief that an employee has engaged in misconduct by misusing, abusing, and/or engaging in fraudulent activity in requesting, certifying, or taking leave under the policy, the department head or their designee shall notify their contacts within the DHR and the Department of Law.
2. The department shall compile & review the allegations and any supporting information.
3. The department shall confer with the DHR and the Department of Law regarding the findings of their investigation and to review potential resolutions.
4. After conferring with the DHR and the Department of Law, the department shall make the final determination and notify the employee in writing of the outcome of their investigation as well as any discipline the employee may face.
5. A copy of this notice must be sent to the DHR and Department of Law.

III. Contact Information

EEO Division
City of Chicago Department of Human Resources
Diversity and Equal Employment Opportunity Division
121 N. LaSalle Street, Room 1100
Chicago, IL 60602
Phone: (312) 744-4224
Facsimile: (312) 744-1521
TTY: (312) 744-5035
Email: eeodiversity@cityofchicago.org

Office of Inspector General
City of Chicago Office of Inspector General
740 N. Sedgwick St., Suite 200
Chicago, IL 60654
Phone: (773) 478-7799 or
(866) IG-TIPLINE
TTY: (773) 478-2066
Facsimile (773) 478-3949
Website: http://chicagoinspectorgeneral.org

U.S. Department of Labor, Wage and Hour Division
Phone: (866) 487-9243
TTY: (877) 889-6527
Website: www.dol.gov/whd

Board of Ethics
City of Chicago Board of Ethics
740 N. Sedgwick St., 5th Floor
Chicago, IL 60654
Phone: (312) 744-9660
TTY: (312) 744-5996
Facsimile: (312) 744-2793
Email: Steve.Berlin@cityofchicago.org

Commission on Human Relations
City of Chicago Commission on Human Relations
740 N. Sedgwick St., Suite 400
Chicago, IL 60654
Phone: (312) 744-4111
TTY: (312) 744-1088
Facsimile: (312) 744- 1081
Email: cchrfilings@cityofchicago.org