

## **CITY OF NORWALK**

### **FAMILY AND MEDICAL LEAVE ACT POLICY**

#### **OVERVIEW**

The City of Norwalk is a “covered” employer under the Federal Family and Medical Leave Act (FMLA or Act) and is subject to all rules and regulations under the Act. The Connecticut family and medical leave statutes and regulations do not apply to the City.

In general, the FMLA allows eligible employees to take job-protected leave for the reasons specified in the law. Eligibility for leave, the reasons for leave, the allowable length of leave and the benefits and protections of the FMLA are specified in the Act and related regulations, and summarized in this Policy. This Policy is based on the Act and regulations, as amended to January 2009.

Questions concerning the FMLA and this Policy should be directed to the City’s Personnel Department.

#### **POLICY**

It is the policy of the City of Norwalk to grant FMLA leave to the full extent of the law. For employees with accumulated paid leave, FMLA leave is first charged to the employee’s accrued paid leave which is eligible for use based on the reason for the FMLA leave. Sick leave, if applicable, vacation and personal leave run concurrently with FMLA leave time until the paid leaves are exhausted. When an employee has no accrued leave time or when accrued paid leave time is fully utilized, FMLA leave is unpaid. During the period of FMLA leave, whether paid or unpaid, an employee remains eligible for health insurance coverage paid by the City to the same extent as prior to the leave.

#### **SPECIFIC PROVISIONS**

##### **A. Eligibility**

In order to qualify for FMLA leave, the employee must meet all of the following conditions:

- The employee must have worked for the City for 12 months, which need not be consecutive.
- The employee must have worked at least 1,250 hours during the 12 months immediately preceding the start of the FMLA leave.

## **B. Qualifying Reasons, Types of Leave and Length of Leave**

In general, an employee is eligible for up to 12 workweeks of FMLA leave in a 12-month period. When the leave is to care for an injured or ill service member, an employee is eligible for up to 26 weeks of leave in a 12-month period. The 12-month period starts on the date of the employee's first day of FMLA leave. In most cases, leave is full-time, but intermittent leave is permitted in certain circumstances described below.

### **In General - Leave for 12 Workweeks:**

The City will grant an employee up to a total of 12 workweeks of FMLA leave in a 12-month period for one or more of the following reasons:

- The birth of a child, and to care for a newborn child;
- The placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- To care for an immediate family member (spouse, child or parent – but not a parent “in-law”) with a serious health condition;
- When the employee is unable to perform the duties of his or her position due to a serious health condition, including incapacity due to pregnancy, prenatal medical care or child birth; and
- A qualifying exigency arising out of a family member's military service, including one more of the following reasons:
  - a) a short notice deployment;
  - b) military events and related activities;
  - c) childcare and school activities;
  - d) financial and legal arrangements;
  - e) counseling;
  - f) rest and recuperation;
  - g) post-deployment activities; or
  - h) additional duties that arise out of the active duty or call to active duty of a covered military member, provided that the City and the employee agree that such leave qualifies as an exigency, and agree to both the timing and the duration of such leave.

### **Leave to Care for an Injured or Ill Service Member:**

An eligible employee may take up to 26 workweeks of FMLA leave during a 12-month period to care for an injured or ill service member who is the employee's spouse, parent, child or next of kin, and who incurred the injury or illness in the line of duty and while on active duty in the Armed Forces. The injury or illness must render the service member medically unable to perform the duties of his/her office, grade, rank or rating. This provision applies to service members who are undergoing medical treatment, recuperation, or therapy, are in outpatient status, or who are on the temporary disability retired list, for a serious injury or illness.

When combined with any other type of FMLA qualifying leave, total leave time may not exceed 26 weeks in a single twelve 12 month period. Standard FMLA leave procedures described below apply to all requests for and designation of leave for this purpose. However, in the case of leave to care for an injured or ill service member, the 12-month period begins on the day such leave actually commences.

**Limitations on Certain Leaves:**

FMLA leave to care for a newborn child or newly placed adopted child must normally be taken as consecutive days. An employee may request that such leave be taken on non-consecutive days. Approval for leave on non-consecutive days is at the sole discretion of the Department Head and Director of Personnel. All leave to care for a newborn or newly adopted child must conclude within 12 months of the date of birth or adoption.

If two City employees request leave for the birth of their child, placement of a child with them through adoption or foster care, or to care for a seriously ill parent, the two employees will be entitled to a maximum combined total leave equal to 12 weeks in any one 12-month period. If either spouse or parent (or both) uses a portion of the total 12-week entitlement for one of these purposes, each is entitled to the difference between the amount he or she has taken individually and the 12 weeks for FMLA leave for their own or their spouse's serious health condition in the 12-month entitlement period.

**Definition of Serious Health Condition:**

For purposes of the FMLA, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Any period of incapacity or treatment connected with in-patient care in a hospital, hospice or residential medical care facility.
- A period of incapacity requiring absence of more than three consecutive full calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
  - 1) treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (for example, a 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 under the supervision of the health care provider.

The requirement for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity. Whether

additional treatment visits or a regimen of continuing treatment is necessary within the 30-day period shall be determined by the health care provider.

- Any period of incapacity due to pregnancy or for prenatal care.
- Any period of incapacity or continuing treatment related to a chronic serious health condition that is incurable or so serious that would most likely result in incapacity of more than 3 consecutive days if left untreated. For chronic conditions, the employee must have at least two in-person visits for treatment by a health care provider each year.
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, terminal illnesses).

#### **Intermittent/Reduced Schedule Leave:**

Employees may take leave on an intermittent basis or work a reduced schedule when:

- Medically necessary to care for a seriously ill family member;
- Medically necessary due to the employee's serious health condition;
- To care for a newborn or newly placed adopted or foster care child, with approval by the Department Head and the Director of Personnel.

The following conditions apply to intermittent or reduced schedule leave:

- Employees must make a reasonable effort to schedule such leave in a way that does not disrupt the department or division operations.
- Employees making such a request may be transferred temporarily to an alternative job with equivalent pay and benefits, which accommodates recurring periods of leave better than the employee's regular job.
- Applicable collective bargaining agreements must be complied with.

#### **C. Use of Paid and Unpaid Leave:**

For all leave time taken under the FMLA, employees are required to use paid leave time, if such is available, prior to taking unpaid leave. Paid leave is to be charged in the following order: sick leave (if the reason for the leave qualifies as sick leave), vacation, personal leave. On a case-by-case basis, the Director of Personnel may allow an employee to withhold up to three vacation days to be available for use for emergencies or special needs upon the employee's return from leave. All paid leave must be taken in accordance with the City's leave policies and any collective bargaining agreement covering the employee. Unpaid leave will be charged in one-hour increments.

An employee must be placed on FMLA leave as soon as there is information that the leave taken qualifies as FMLA. Leaves which may be covered by other laws (such as Worker's Compensation) or by collective bargaining agreements (particularly accrued sick leave), are also designated as FMLA leave.

**D. Notification:**

**Employee Notice and Responsibilities:**

An eligible employee requesting FMLA leave must provide to his/her Department Head:

- 30 days advance notice of the need to take FMLA leave when the need is foreseeable. If the need is not known 30 days in advance, the notice must be given as soon as practicable, either the same or the next work day after the employee knows of the need for leave, and in compliance with any contractual or departmental rules for calling-in sick.
- Sufficient information and documentation that the employee needs leave for an FMLA qualifying reason.

An eligible employee requesting FMLA leave must provide to the Personnel Department:

- If the leave is for a serious health condition of the employee or a family member, within 15 calendar days from the date of the request for leave or designation by the City of FMLA leave, a Certification of Health Care Provider.
- If the leave is a qualifying exigency for military family leave, a Certification of Qualifying Exigency.
- If the leave is to care for an ill or injured service member, a Certification for Serious Injury or Illness of a Covered Service.

Copies of all necessary forms are available from the Personnel Department.

If, at the time of an employee's absence, the City was not aware that the absence was for an FMLA qualifying reason, notice and documentation that the leave was taken for an FMLA qualifying reason must be provided within 2 business days of the employee's return to work.

The employee need not mention FMLA when requesting leave to meet the notification requirement, but need only explain why leave is needed. In this circumstance, the City will notify the employee that the leave may qualify as FMLA leave and will provide the employee with any required forms.

**Employer Notice and Responsibilities:**

The Personnel Department will post notices of employees' rights and responsibilities under the FMLA, and will provide copies of this policy to all employees.

Department Heads will take the following steps to provide information to the Personnel Department and employees concerning FMLA leave:

- Whenever a supervisor becomes aware that an employee is requesting leave or is out of work for five (5) or more consecutive working days due to a serious health

condition, the supervisor will report this to the department head, who will consult with the Personnel Department to determine if the employee's absence should be designated as FMLA leave;

- Upon request by the employee or upon determination by the City that an employee's absence qualifies for FMLA leave, the employee or department head shall submit an application for FMLA Leave to the Personnel Department. The Personnel Department will provide the employee and department head with a written notice within five (5) business days designating the leave as FMLA leave and detailing expectations and obligations of an employee on such a leave.

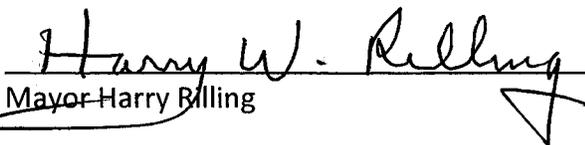
**E. Health Benefits:**

While the employee is on paid or unpaid FMLA leave, the employee's health benefits will continue during the leave period at the same level and under the same conditions as if the employee had continued to work. Pursuant to applicable collective bargaining agreements and City policy, employees pay a portion of the health insurance premium. While an employee is on paid FMLA leave, the City will continue to make payroll deductions for the employee's share of the premium. While on unpaid FMLA leave, the employee must continue to make premium cost share payments, either in person or by mail. The payment must be received in the Personnel Department by the 15<sup>th</sup> day of each month for the following month's coverage. If the payment is more than 30 days late, the employee's health insurance coverage may be dropped for the duration of the leave. The City will provide 15 days' notice prior to stopping the employee's coverage.

**F. Reinstatement Following Leave:**

Upon completion of the FMLA leave, the employee is required to complete and submit the "Employee Return from FMLA Leave Form". If the FMLA leave was due to a personal health condition, a fitness-for-duty certificate completed and signed by the treating physician must accompany the "Return from FMLA Leave Form".

In most cases, while an employee is on FMLA leave, the employee's position will not be filled, except on a temporary basis, and the employee will be return to the same position held prior to leave. If the employee's position must be filled during his/her absence, the employee will be returned to an equivalent job - that is, one which is essentially identical to the original job in terms of pay, benefits and working conditions.

  
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Mayor Harry Billing

12/20/13  
Date