

**CITY OF CHANDLER
FAMILY AND MEDICAL LEAVE POLICY**

I. PURPOSE

The purpose of this policy is to provide information on the federal Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. § 2601 *et seq.*, as amended, and to integrate the FMLA with City policies and establish guidelines for the use of FMLA leave.

II. POLICY

The City, in accordance with the FMLA, provides eligible City of Chandler employees with up to 12 weeks (480 hours) of job-protected leave per a rolling 12-month period for specific family and medical reasons or military-related qualifying exigencies, and up to 26 weeks of job-protected leave in a single statutorily-defined 12-month period to care for a covered servicemember or qualified veteran. The leave may be paid, unpaid, or a combination thereof depending on the employee's particular leave circumstances and as specified in this policy. In the event of an inadvertent conflict between the FMLA and City rules and policies, federal law will take precedence.

III. DEFINITIONS

For purposes of this policy, the following definitions apply:

"City's Family Medical Leave Act (FMLA) Administrator" means the 3rd party administrator the City has contracted to administer and manage the Family Medical Leave Program.

"Contingency Operation" means, for purposes of Qualifying Exigency leave, a military operation that is (a) designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing force; or (b) results in the call or order to, or retention on, active duty of members of the uniformed services under certain enumerated statutes.

"Continuing Treatment" includes any one or more of the following:

- a. A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or incapacity relating to the same condition that also involves:
 - i. Treatment by a health care provider at least two times within 30 days of the first day of incapacity; or
 - ii. Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of a health care provider;

- b. A period of incapacity due to pregnancy or prenatal care;
- c. A period of incapacity or treatment due to a chronic serious health condition;
- d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
- e. Any period of absence to receive multiple treatments by a health care provider.

"Covered active duty" for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country. Covered active duty for members of the reserve components of the Armed Forces (U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation as defined in 10 U.S.C. § 101(a)(13)(B).

"Covered Servicemember " means (a) a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status (as defined in the FMLA and regulations), or is otherwise on the temporary disability retired list, for a serious injury or illness; or (b) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, and was discharged or released under conditions other than dishonorable at any time during the five-year period preceding the first date the eligible employee takes FMLA leave to care for the qualified veteran.

"In loco parentis" means a relationship in which a person has put himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child with whom he or she has no legal or biological connection. Persons *in loco parentis* include those with day-to-day responsibilities to care for or financially support a child and, in the case of an employee, the persons who had responsibility for the employee when the employee was a child.

"Inpatient Care" means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care.

"Intermittent Leave" means leave taken in separate blocks of time due to a single qualifying reason.

"Next of Kin" means the nearest blood relative, other than a spouse, parent, son, or daughter.

"Parent" means a biological, adoptive, step or foster parent or any other individual who acted in the place of a parent ("*in loco parentis*") when the employee was a son or daughter. Parents-in-law (spouse's parents) are not included in this definition.

"Rolling Twelve (12) Month Period" - means when calculating an employee's available FMLA leave, the employee's remaining available balance is 12 weeks minus whatever portion of FMLA leave the employee used during the 12 months preceding the date on which the calculation is made. In other words, the City looks back over the last 12 months, adds up all the FMLA time the employee has used during the previous 12 months, and subtracts that total from the employee's 12-week leave allotment.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.

"Chronic Serious Health Condition" is a serious health condition that requires periodic visits of at least twice a year for treatment or causes episodic periods of incapacity and continues over an extended period of time.

"Serious injury or illness" (for a covered servicemember) means:

(1) In the case of a current member of the Armed Forces (including the National Guard or Reserves) means an injury or illness incurred by a covered servicemember in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank or rating.

(2) In the case of a qualified veteran means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is: (i) a continuation of a serious injury or illness incurred or aggravated when the qualified veteran was a member of the Armed Forces that rendered the servicemember unable to perform the duties of the member's office, grade, rank, or rating; (ii) a physical or mental condition for which the qualified veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater; (iii) a physical or mental condition that substantially impairs the qualified veteran's ability to secure or follow a substantially gainful occupation due to disability or disabilities related to military service, or would do so absent treatment; or (iv) a physical or psychological injury for which the qualified veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

"Son or Daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a 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 caregiver and qualifying exigency leave, the individual may be of any age.

"Spouse" means a husband or wife as defined or recognized under Arizona law for purposes of marriage.

IV. RESPONSIBILITIES

- A. Employee – It is the employee's responsibility to promptly notify the City's FMLA Administrator and his/her supervisor of the request for time off required for family or medical reasons and to produce any required medical certifications to the City's FMLA Administrator within the time limits provided. The employee is responsible for complying with all City rules, policies, procedures, and directives when requesting, using, and reporting leave taken for family and/or medical reasons.
- B. Supervisor – It is the supervisor's responsibility to ensure the employee notifies the City's FMLA Administrator of the need for FMLA Leave and to ensure any leave taken is accurately reported in the City's timekeeping system.
- C. Human Resources – It is Human Resources' responsibility to ensure that the City's FMLA Administrator is administering the program in an acceptable manner.
- D. City's FMLA Administrator – It is the responsibility of the City's FMLA Administrator to manage the City's FMLA leave program in accordance with City Policy and Federal law.

V. ELIGIBILITY

- A. In order to qualify for family or medical leave under this policy, a temporary or regular employee must meet all of the following conditions:
 - The employee must have been employed by the City for at least 12 months, or 52 weeks (need not be consecutive) on the date the FMLA leave is to commence.
 - The employee must have worked (including paid absences) for a period of not less than 1,250 hours during the preceding 12 months. Absences covered by the City's short-term disability benefit are not counted as time worked for purposes of this requirement.
 - Employees are not eligible for the continuation of an FMLA leave for their own serious health condition once the employee has been released to return to his or her full schedule of work by a healthcare provider.
- B. The 12-month eligibility period for basic family medical leave and military qualifying exigency leave will be computed as a rolling 12 month period measured backward from the date leave is used.

- C. The single 12 month period for the 26 weeks of leave entitlement for family military caregiver leave will be measured forward from the date an employee's first FMLA leave to care for the covered servicemember or qualified veteran begins.

VI. BASIC FAMILY MEDICAL LEAVE

- A. Leave taken for one of the below-listed reasons qualifies as basic family medical leave under this policy:
- The employee's own serious health condition which makes the employee unable to perform one or more of the essential functions of his or her job;
 - The birth of the employee's son or daughter and care of the infant;
 - The placement of a son or daughter with the employee for adoption or foster care;
 - To care for a spouse, son or daughter, or the employee's own parent with a serious health condition; or
 - To care for a son or daughter or individual for whom the employee stands *in loco parentis*.
- B. Leaves for births, adoptions, and child placement must be continuous and will not be granted on an intermittent basis unless medically necessary. If the City employs both the husband and wife, both are eligible for 12 weeks of Family Medical Leave for these purposes. The employee must provide appropriate, complete, and sufficient certification based on the type of leave being requested. Employees must give at least 30 days advance notice for such leave, if possible. For the birth, adoption, or placement of a foster child, leave must be completed within 12 months of the event.
- C. If leave is requested for the employee's own medical condition, the employee must provide a complete and sufficient certification from the health care provider confirming the employee's inability to perform his or her job duties. For planned medical leave, employees will make reasonable efforts to schedule treatments so as not to disrupt their work schedules and will give as much advance notice as possible.
- D. The employee shall provide the requested certification or recertification to the City's FMLA Administrator no later than 15 calendar days after the request for the required certification is made to the employee. The employee's failure to provide a requested certification or recertification within the required time period may result in the denial of FMLA leave and its associated protections unless the employee can demonstrate it was impractical to comply with the deadline under the particular circumstances despite the employee's diligent, good faith efforts.
- E. If eligible, leave taken due to a job-related injury or illness or while receiving City-provided Short Term Disability qualifies as Family and Medical Leave.

- F. For leave to care for a spouse, the employee's own parent, son or daughter, or other individual with whom the employee stands *in loco parentis* or who stood *in loco parentis* with the employee, the employee must provide the City's FMLA Administrator with a complete and sufficient certification from the health care provider verifying the severity of the illness or condition, including when it commenced, its probable duration and the medical facts surrounding the illness or condition. Additionally, the health care provider must verify that the employee's assistance is required. The employee must complete the employee portion describing the care they will be providing.
- G. The City and/or the City's FMLA Administrator may require a second opinion at City expense for any medical leave and may designate the health care provider who will furnish the opinion. If a third medical opinion is required to resolve a conflict between the first and second health care providers, the third health care provider will be selected jointly by the City and the employee and the third opinion obtained at the City's expense. The third health care provider's opinion is final and binding.

VII. MILITARY FAMILY LEAVE

- A. Leave taken for one of the reasons listed below qualifies as military family leave under this policy:
 - 1. **Qualifying Exigency Leave** - Eligible employees with a spouse, son or daughter, or parent on covered active duty or call to covered active duty, as those terms are defined in the FMLA statute and regulations, for any branch of the Armed Services (regular or reservist) may use Military Family Leave for the following qualifying exigencies:
 - (a) *Short-notice deployment.* To address issues arising from a military member's notification of an impending call or order to active duty within seven or fewer calendar days before the date of deployment.
 - (b) *Military events and related activities.* To attend an official military-sponsored ceremony, program, or event related to the military member's covered active duty or call to covered active duty; or to attend family support or assistance programs and informational briefings sponsored by the military, military service organizations, or the American Red Cross related to the military member's covered active duty or call to covered active duty.
 - (c) *Childcare and school activities.* To arrange for alternative childcare for a child of the military member; to provide childcare for a child of a military member on an urgent, immediate need basis when the need for such arises from the military member's covered active duty or call to covered active duty; to enroll in or transfer to a new school a child of a military member when such enrollment or transfer is necessitated by the military member's covered active duty or call to covered active duty; or to attend meetings with staff at a school or daycare facility for a child of a military member when such meetings are necessary due

to circumstances arising from the military member's covered active duty or call to covered active duty.

- (d) *Financial and legal appointments.* To make or update financial or legal arrangements to address a military member's absence while on covered active duty or call to covered active duty; or to act as a military member's representative before a federal, state, or local agency for purposes of obtaining benefits while the military member is on covered active duty or call to covered active duty, and for 90 days following the military member's active duty status.
- (e) *Counseling.* To attend counseling provided by someone other than a health care provider for oneself, the military member, or the child, stepchild, or ward of the military member when the need for such counseling arises from the military member's covered active duty or call to covered active duty.
- (f) *Rest and recuperation.* To spend up to 15 calendar days with a military member on short-term, temporary Rest and Recuperation leave.
- (g) *Post-deployment activities.* To attend arrival ceremonies, reintegration briefings and events, and any other official military-sponsored ceremony or program for up to 90 days following the military member's covered active duty; or to address issues that arise from the death of the military member while on covered active duty, such as meeting and recovering the body of the military member, making funeral arrangements, and attending funeral services.
- (h) *Parental care.* To arrange for alternative care for a parent of a military member when the parent is incapable of self-care and the military member's covered active duty or call to covered active duty necessitates a change in the existing care arrangement; to provide for a parent of a military member on an urgent, immediate need basis when the need for such arises from the military member's covered active duty or call to covered active duty; to admit or transfer to a care facility a parent of a military member when such admittance or transfer is necessitated by the military member's covered active duty or call to covered active duty; or to attend other than routine or regular meetings with staff at a care facility relating to a military member's parent when such meetings are necessary due to the military member's covered active duty or call to covered active duty.
- (i) *Additional activities.* Any additional activities agreed upon by the City and employee.

2. **Military Caregiver Leave** - Eligible employees who are the spouse, son or daughter, parent, or next of kin of a covered servicemember or qualified veteran may take up to 26 weeks of Military Family Leave during a single 12-month period to care for a covered servicemember or qualified veteran with a serious injury or illness incurred or aggravated while in the line of duty on active duty.

For purposes of qualifying for military caregiver leave —

- (a) A current member of the Armed Services (including National Guard and Reserves) must be: (i) undergoing medical treatment, recuperation, or therapy; (ii) in outpatient status; or (iii) on the temporary disability retired list, for a serious injury or illness.

- (b) A veteran must: (i) be undergoing medical treatment, recuperation, or therapy for a serious injury or illness, and (ii) have been a member of the Armed Forces (including National Guard and Reserves) who was discharged or released under conditions other than dishonorable at any time during the five-year period preceding the first date the eligible employee takes FMLA leave to care for the qualified veteran
- B. For a “Qualifying Exigency Leave” and “Military Caregiver Leave”, a son or daughter may be of any age, and includes a biological, adopted, or foster child, stepchild, legal ward, or child with whom the employee stood *in loco parentis*.
- C. For a “Qualifying Exigency leave”, the employee must provide a copy of the military member’s active duty orders or other documentation by the military that verifies that the military member is on active duty or received a call to active duty during deployment to a foreign country and the dates of the active duty service. In addition, the employee must provide a signed statement or description of the facts which sets forth information on the type of qualifying exigency for which the leave is being requested.
- E. The employee shall provide the requested certification to the City’s FMLA Administrator within 15 calendar days after the Administrator provides the required certification form to the employee. The employee's failure to provide a requested certification within the required time period may result in the denial of FMLA leave and its associated protections unless the employee can demonstrate it was impractical to comply with the deadline under the particular circumstances despite the employee's diligent, good faith efforts. The FMLA recertification requirements and City's right to require a second opinion do not apply to Military Caregiver Leave.
- E. When a Military Caregiver Leave also qualifies as Basic Family Medical Leave to care for an employee’s family member with a serious health condition, the leave will be designated as Military Caregiver leave first and the employee is entitled to a combined total of 26 workweeks of leave during the applicable 12 month period.
- F. An employee is entitled to a combined total of 26 workweeks of Military Caregiver Leave and Basic Family Medical Leave for any other FMLA-qualifying reason in the single 12-month period, provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason during this period.
- G. If the City employs more than one family member that is eligible for Military Family Leave, each family member is eligible for Military Family Leave.

VIII. REPORTING HOURS

- A. All leave used for FMLA must be reported to the City’s FMLA Administrator and to the City for payroll purposes.

- B. When reporting hours to the City's FMLA Administrator, the dates of the leave and the number of hours must be reported.
- C. When reporting hours to the City's designated timekeeping system, the dates(s) of the leave, the number of hours, and the type of FMLA leave must be reported.

IX. USE OF PAID AND UNPAID LEAVE

- A. Employees' accrued paid leave must be used concurrently with FMLA Leave. Employees are required to use accrued eligible leave balances first as part of the Family and Medical Leave period. Paid absences may satisfy part or all of the Family and Medical Leave. Accrued leave will be used in the following order: (i) sick leave (if applicable), (ii) vacation leave, and (iii) other paid leave balances.
- B. When an employee has exhausted all available, eligible paid leave balances the balance of the employee's Family and Medical leave will be unpaid.

X. USE OF INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE

- A. Leave can be taken intermittently or as a reduced work schedule when medically necessary or for qualified exigency leave.
- B. In the case of a medical reason that requires a reduced work schedule or intermittent leave due to the employee's own serious health condition or the serious health condition of a qualified family member (parent, spouse, son or daughter), the employee must provide the City's FMLA Administrator with a complete and sufficient certification from the health care provider indicating the medical necessity and duration of the need for intermittent or reduced schedule leave. The total sum of intermittent absences must not exceed the maximum number of weeks over a 12 month period allowable under the Family and Medical Leave Act.
- C. Employees must make a reasonable effort to schedule planned medical treatment requiring intermittent leave so as not to unduly disrupt the City's operations. Employees should notify the City's FMLA Administrator and their supervisor, a minimum of 72 hours in advance, of their intention to use intermittent leave. If it is not possible to give advance notice, the employee must give as much notice as is practicable. Failure to request leave in advance cannot be grounds to deny or delay the taking of Family and Medical Leave.

XI. EMPLOYEE STATUS & BENEFITS

- A. While on Family and Medical Leave, employees will continue to receive the same level of group health coverage they had while in an active status, as well as all other employment benefits they had prior to departure on leave when employee-paid costs are made, with the following exceptions:

1. Vacation and sick leave will not accrue during any pay period in which the employee receives no pay.
 2. Retirement credit will not accrue, nor will contributions be made to any retirement system, during any pay period in which the employee receives no pay.
- B. FMLA absences will not constitute a break in City service for seniority purposes.
- C. Employees who will be unpaid during their leave must make arrangements with the Human Resources Division prior to departure on leave to ensure that employee-paid costs for insurance coverage and payments for other optional benefits are paid for by the employee on a timely basis.
- D. If an employee elects not to return to work, the City is entitled to recover from the employee, the cost of the health, dental, and life insurance premiums paid on the employee's behalf while the employee was on leave.
- E. An employee on FMLA-eligible leave will be returned to the same position or an equivalent position with equivalent pay, benefits, and working conditions at the conclusion of FMLA leave.

XII. FMLA CERTIFICATION & RECERTIFICATION

- A. Employees whose need for FMLA leave exceeds one year (such as for intermittent or reduced schedule leave for the treatment of a long-term or lifetime serious health condition) will be required by the City to provide a new Certification annually. The City may request the employee's healthcare provider to provide authentication and clarification of the information provided in a new Certification and, where warranted, may require second and third medical opinions.
- B. Employees who require FMLA leave for a period that exceeds six months will be required to provide a Recertification every six months in connection with an absence except when required by the City to provide a new Certification. Accordingly, employees with long-term needs for FMLA leave that span more than a single year will be required to provide one Certification and one Recertification of the medical condition during each 12-month period. The City may request the employee's healthcare provider to provide authentication and clarification of the information provided in a Recertification but may not require second and third medical opinions.
- C. Employees who require FMLA leave for a period of less than six months may be required to provide a Recertification based upon the information provided by the health care provider about the duration of the need for leave, but in no event shall be required to provide a Recertification more frequently than every 30 days unless: (i) the employee seeks an extension of the leave; (ii) circumstances described by the certification appear to have changed significantly; or (iii) information is received which casts doubt on the reason given for the absence.

XIII. PROCEDURE FOR REQUESTING LEAVE

- A. All employees requesting leave under this policy must submit a request for Family & Medical Leave, with an explanation of the reason(s) for the needed leave to the City's FMLA Administrator. Employees must also notify their immediate supervisor of the request for leave.
- B. When an employee plans to take leave under this policy, the employee must give the City's FMLA Administrator 30 days advance notice if the leave is foreseeable. If it is not possible to give 30 days' advance notice, the employee must give as much notice as is practicable. Failure to request leave cannot be grounds to deny or delay the taking of Family and Medical Leave.
- C. If the employee is unable to contact the City's FMLA Administrator to request his/her leave, the supervisor shall contact the City's FMLA Administrator to notify them of the employee's need for FMLA. The supervisor will not provide any medical information when notifying the City's FMLA Administrator of the need for leave.
- D. The City's FMLA Administrator will provide notice of rights and obligations to each employee requesting leave as outlined in Section IV, Responsibilities.
- E. The employee must follow all City rules, policies, procedures, and directives concerning the reporting of absences and use and reporting of leave while on Family and Medical Leave.
- F. An employee's failure to provide the notifications as required may result in the denial of FMLA leave and treatment of the leave as unauthorized.
- G. If an employee is taking intermittent leave they must provide a minimum of 72 hours advance notice of their intention to use intermittent leave to the City's FMLA Administrator and their supervisor. If it is not possible to give this notice, the employee must give as much notice as is practicable.

XIV. RETURN TO WORK

Employees returning to work after an approved continuous FMLA leave due to their own serious health condition are required to present a health care provider's release to full duty to the City's FMLA Administrator prior to returning to work. If a full duty release is not received from the employee's health care provider, the employee may be eligible for transitional duty (light duty). Any request for reasonable accommodation related to the employee's return to work should be made at least five work days before the employee's anticipated date of return, if possible. An employee's return to work may be delayed until a full duty release is provided or transitional duty or a reasonable accommodation is approved. If leave is for a medical condition affecting an immediate family member, a doctor's release is not required for the employee to return to work.

XV. APPROVAL

This supersedes the Family and Medical Leave Policy dated September 28, 2009.

Approved: Rich Dlugas Date: 2-28-13
Rich Dlugas, City Manager