

APPENDIX A

Family Medical Leave and Family Care leaves are administered by the City of Fort Collins for the Library District. For purposes of the administration of these policies, Library District employees are covered the same as “City Employees” by these policies as described below.

City of Fort Collins Family Medical Leave Act and Family Care Act Policies

6.9 Family and Medical Leave Act

6.9.1 Eligible Employees

All City employees, regardless of category of employment, are eligible for unpaid leave under the federal Family and Medical Leave Act (“FMLA”) when they have worked for the City:

1. At least 12 months (need not be consecutive); and
2. 1250 hours or more during the 12 months immediately preceding the start of the FMLA leave.

6.9.2 When FMLA Leave May Be Used

A. Eligible employees are provided with up to 12 weeks of unpaid leave in a 12-month period for the purpose of:

1. Caring for the employee’s child within the first 12 months after birth, adoption or foster placement;
2. Providing necessary care for the employee’s spouse, child or parent suffering from a serious health condition;
3. Suffering from a serious health condition which makes the employee unable to perform the functions of their position; and/or
4. Incapacity due to pregnancy, prenatal medical care or childbirth.

B. Any qualifying exigency arising out of the fact that the employee’s spouse, child, or parent is a military member on covered active duty or has been notified of an impending call or order to covered active duty (see Exigency Leave under [Personnel Policy 6.9.14](#), Special Provisions Related to Military Family Leave). Employees eligible for military caregiver leave may take up to 26 weeks of leave in a single 12-month period to care for a covered military member with a serious injury or illness if the employee is the spouse, child, parent or next of kin of the military member (see Military Caregiver Leave under [Personnel Policy 6.9.14](#), Special Provisions Related to Military Family Leave).

6.9.3 Amount of FMLA Leave for Part-Time Employees

Eligible part-time employees are provided 12 weeks of FMLA leave, but the number of hours is pro-rated based upon FTE. For example, 12 weeks of leave for a full-time employee is typically 480 hours, while 12 weeks of leave for a part-time employee who is a “0.75 FTE” is approximately 360 hours.

6.9.4 Period When FMLA Leave May Be Taken

FMLA leave is limited to 12 weeks in a 12-month period. The City elects to use the “rolling” method as its 12-month period. This means that FMLA usage for any employee eligible for such leave is measured back in time 12 months from the date an employee requests FMLA leave. An employee’s available FMLA leave time is the balance of the 12 weeks not used during the immediate preceding 12 months.

6.9.5 Additional Limits When Spouses Are Both City Employees

Two City employees who are legally married to one another and who are both eligible for FMLA leave are limited to a combined total of 12 weeks of FMLA leave during a 12-month period if the leave is taken:

1. For birth of the employee’s child or to care for the child after birth;
2. For placement of a child with the employee for adoption or foster care, or to care for the child after placement; or
3. To care for the employee’s parent with a serious health condition.

6.9.6 Integration of FMLA Leave with Paid Leave Time

A. FMLA leave time is unpaid leave. However, if the employee has other eligible paid leave time available, they may request the use of paid leave and must receive approval from their manager for its use. Any approved paid leave will run concurrently with approved FMLA leave.

B. Employees who are eligible for holiday time and who are on FMLA Leave during a designated holiday (if included in their regularly scheduled work week) must record holiday time for that day. 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.

6.9.7 Requested or Required Use of FMLA Leave Time

A. Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days’ notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the City’s normal call-in procedures for reporting absences and tardiness (see Personnel Policy 6.1). Employees must provide sufficient information for the City’s FMLA Administrator to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified. Manager must notify the Human Resources Department of a subordinate employee’s absence from work that may qualify as FMLA leave. The City may retroactively designate time away from work as FMLA leave if the employee fails to provide requested certification of eligibility or if the City determines that the past time away from work qualified for FMLA leave.

B. Once the City becomes aware of an employee's need for leave, the employee will be instructed to call the City's FMLA administrator to determine whether they are eligible for FMLA leave. If the employee is eligible, the City's FMLA Administrator will notify the employee of any additional information required as well as the employee's rights and responsibilities. If the employee is not eligible for FMLA leave, they will be provided with the reason for the ineligibility.

C. The City's FMLA Administrator will inform an employee if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the City's FMLA Administrator determines that the leave is not FMLA-protected, the employee will be so notified.

D. The FMLA makes it unlawful for an employer to:

1. Interfere with, restrain, or deny the exercise of any right provided under the FMLA; and
2. Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

E. An employee should report any violation of this policy or the FMLA to the Chief Human Resources Officer. Additionally, an employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer for a violation of the FMLA. The FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

6.9.8 Certification Required for FMLA Leave

A. The employee must provide the City's FMLA Administrator with written certification issued by the health care provider within 15 calendar days from the date of the FMLA request/notification. This certification generally requires the following:

1. Contact information for the health care provider, including name, address, telephone number, fax number, and type of medical practice/specialty;
2. The date on which the condition commenced;
3. The nature and/or appropriate medical facts about the condition;
4. Whether the employee's need for leave is continuous or intermittent;
5. (For serious health conditions of the employee) Confirmation that the employee is unable to perform the essential functions of their job, and the likely duration of this inability;
6. (For care of family members) Confirmation that the family member requires care by the employee and an estimate of the frequency and duration of the leave required to care for the family member; or
7. (For birth or placement of a child) Confirmation of the birth or placement of the child.

B. If the employee fails to return the certification in a timely manner, the City can deny FMLA protections for the leave following the expiration of the 15-calendar day time period until a complete and sufficient certification is received.

C. The City may, in its discretion, require a second opinion from a health care provider of its own choosing and at its own expense.

D. Continued absence after denial of leave may result in disciplinary action in accordance with these Personnel Policies and Procedures.

6.9.9 Intermittent or Reduced Schedule FMLA Leave

Under certain circumstances, the employee is entitled to take FMLA Leave on an intermittent or reduced schedule basis.

A. Leave for Child Care after Birth or Placement of a Child:

Employees are not entitled to intermittent or reduced schedule FMLA Leave for the birth and care of a newborn child or for the placement of an adopted or foster care child unless the City agrees to the arrangement. Employees may submit a proposed schedule for the leave in writing to the employee's manager. The City, in its discretion, may grant or deny a request for intermittent leave for the purpose of caring for a child after birth or placement.

B. Unforeseeable Leave for Serious Health Condition of Employee or Spouse, Child or Parent:

Employees are entitled to take leave on an intermittent or reduced schedule basis when medically necessary. The employee must provide a certification which includes the following:

1. For Care of Covered Family Members: Confirmation that intermittent or reduced schedule leave is necessary for the care of the one who has the serious health condition or will assist in their recovery, and the expected duration and schedule of the leave, including a schedule of treatment dates where possible;
2. For Employee's Own Serious Health Condition: Confirmation that intermittent or reduced schedule leave is medically necessary, and an estimate of the frequency and duration of the intermittent leave, including a schedule of treatment dates where possible.

C. Planned Medical Treatment for the Employee or Spouse, Child or Parent:

Employees are entitled to take leave on an intermittent or reduced schedule basis when medically necessary. Employees must make reasonable efforts to schedule the treatment so as not to unduly disrupt the operations of the department. The employee must provide a certification which includes the following:

1. Confirmation that intermittent or reduced schedule leave is medically necessary;
2. An estimate of the dates and duration of such treatment and periods of recovery.

D. Transfer to an Alternative Position:

If an employee needs intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the employee's manager and Human Resources Department may, at their discretion, require the employee to transfer temporarily to a different position that better accommodates recurring periods of leave. During such a transfer, the employee would continue to receive the same rate of pay and benefits as in their previous position; however, the position does not have to have equivalent duties. When the employee no longer needs intermittent or reduced schedule leave, the employee must be restored to the same or equivalent job as the job that the employee left when the leave started.

6.9.10 Benefits Continuation during FMLA Leave

A. During any paid leave time covered by the FMLA, the City will continue to pay its portion of the premiums for City-sponsored insurance, and to make its contributions to the City-sponsored retirement and deferred compensation plans, as if the employee were actively at work.

B. During any unpaid leave time covered by the FMLA, the City will continue to maintain all medical, vision, life, dental and long-term disability insurance in which the employee participated at the time the leave began. If the employee was responsible for paying any premiums (such as through payroll deductions) at the time the leave began, the employee must continue to make those premium payments within 30 days of the premium due date in order to continue coverage during the leave. If the employee does not make the premium payments on time, or through deferred payroll deductions scheduled with the Human Resources Department, their coverage will cease until they return to work.

C. After 30 continuous calendar days of unpaid leave, the employee will be placed in "unpaid leave" status and will no longer accrue or be eligible to use any paid leave, including holiday time, vacation time, or sick leave. During unpaid leaves, the terms of any retirement plan or deferred compensation plan in which the employee participates will control how the leave is credited under the plan.

D. Upon return from a paid or unpaid leave covered by the FMLA, the employee will have the same benefits as if they had continued to work the entire leave period. Any leave covered by the FMLA will not be counted as a break in service for purposes of vesting, determining eligible credited service or determining eligibility to participate in benefit programs.

6.9.11 Return from FMLA Leave

A. While on FMLA leave, an employee may be required to provide periodic reports on their status and intent to return to work.

B. Employees returning from FMLA leave for their own serious health conditions must obtain the following:

1. If the employee is returning to work (a) prior to the expiration of the health care provider's estimate of duration for the condition as set forth in the FML medical certification, or (b) with any work restrictions, or (c) when the City has reason to believe that there are work restrictions, a release from a physician or health care provider confirming that the employee is able to return to work without endangering the health and safety of themselves or others; and,
2. A detailed description satisfactory to the City of restrictions, if any, on the employee's work activities.

C. Once an employee has returned from FMLA leave, the City may, when it is consistent with business necessity, require the employee to complete a job-related fitness for duty examination by a physician or other health care provider designated and paid for by the City.

D. Employees returning from FMLA leave will be reinstated to the same or equivalent position to the extent required by law, and may be temporarily placed on modified duty in accordance with the City's policy on that subject in these City of Fort Collins Personnel Policies and Procedures.

E. In the event that an employee is granted family and medical leave and the FMLA reason for the approved leave is no longer applicable, the employee must notify their manager so that the employee can be returned to work earlier than the originally designated return-from-leave date.

6.9.12 Failure to Return from FMLA Leave

A. If an employee does not return to work on the date expected back from FMLA leave, their employment with the City may terminate.

B. If an employee does not return to work at the end of the FMLA leave for reasons other than the continuation of a serious health condition or other circumstances beyond the employee's control, the City may collect from the employee the amount of any medical, vision and dental insurance premiums paid by the City on behalf of the employee and dependents during the leave.

6.9.13 Definitions under the FMLA

A. The FMLA defines "health care provider" to include:

1. A licensed Doctor of Medicine or osteopathy;
2. A licensed podiatrist, dentist, clinical psychologist, optometrist, physician assistant, nurse practitioner, nurse midwife, clinical social worker, or Christian Scientist practitioner as defined by federal regulations; or
3. A licensed chiropractor under limited circumstances defined by federal regulations; or
4. Any health care provider from whom the employer or employer's group health plan's benefits manager will accept a medication certification to substantiate a claim for benefits.

B. The FMLA defines "serious health condition" as an illness, injury, impairment or physical or mental condition which involves:

1. Inpatient (overnight) care in a hospital, hospice or residential medical facility; or
2. Continuing treatment by a health care provider and:
 - a. A period of incapacity (absence from work, school or other daily activities) of more than three consecutive calendar days that also involves:
 - i. Treatment two or more times by a health care provider, 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 the health care provider;
 - b. Any period of incapacity due to pregnancy or for prenatal care;
 - c. Any period of incapacity or treatment for such incapacity 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. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider; or
 - e. Any period of absence to receive multiple treatments by a health care provider or by a provider of health care services under orders of, or on referral by, a health care

provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer.

C. For more information about leave covered by the FMLA, definitions of terms used in the law or this policy, and the current federal regulations regarding FMLA, please contact the Human Resources Department.

6.9.14 Special Provisions Related to Military Family Leave

A. Military Caregiver Leave:

Eligible employees who are the spouse, child, parent, or next of kin of a covered service member may be entitled to FMLA leave to care for the covered service member with a serious injury or illness. The injury or illness must make the service member medically unfit to perform their duties. In the case of a veteran, the qualifying illness or injury must be incurred or aggravated in the line of duty and manifest itself before or after the service member became a veteran. The length of such leave, when combined with other FMLA qualifying leave, is limited to 26 weeks in the 12-month period that begins with the first day the eligible employee takes leave to care for the covered service member and ends twelve months after that date. A “covered service member” is defined as either a:

1. Current member of the Armed Forces, 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
2. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness, and who was discharged during the previous 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

B. Exigency Leave:

Eligible employees may be entitled to FMLA leave for any qualifying exigency, as defined by federal regulations, that arises out of the fact that the spouse, child, or parent of an eligible employee, who is in the Armed Forces (including Reserves and National Guard), is on covered active duty or has been notified of an impending call to covered active duty in the Armed Forces in a foreign land. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The length of such leave, when combined with other FMLA qualifying leave, is limited to 12 weeks in the 12-month period as identified in [Section 6.12](#) of these policies.

C. Employees must use sick leave (if the circumstances qualify for sick leave use pursuant to [Section 6.5.2](#)) during either of the above Armed Forces FMLA leaves before unpaid time begins. After exhaustion of any applicable sick leave, employees may use other accrued and applicable paid leave. The use of compensatory time must be pre-approved.

D. Except as provided above, the other provisions of the [Family and Medical Leave policy 6.9](#) remain applicable to these special provisions related to the Armed Forces. The City may require verifying documentation of eligibility circumstances.

E. The provisions of sections 29 U.S.C. §2611, et seq. shall be used in applying the provisions of this policy.

6.9.15 Family Care Act Leave

A. All City employees who are eligible for FMLA coverage are also eligible to use up to 12 weeks of unpaid leave to care for their partners in a civil union who have serious health conditions. Generally, leave under the Family Care Act is administered consistent with the provisions of this FMLA policy.

B. Use of FMLA leave is concurrent with the use of Family Care leave and will reduce the amount of Family Care leave available. However, because the federal FMLA does not recognize the use of leave to care for a civil union partner who is experiencing a serious health condition, the use of Family Care leave does not reduce the amount of FMLA leave available.

C. Examples:

1. An FMLA eligible employee takes 3 weeks of FMLA leave for their own serious health condition or to provide necessary care for the employee's child who is suffering from a serious health condition (or for any other FMLA permitted reason). Later in the 12-month period, the employee desires to take Family Care leave to care for the employee's civil union partner who is suffering from a serious health condition. In this situation, the employee will only have an additional 9 weeks of Family Care leave available because they have already used 3 weeks of FMLA leave, which reduces the availability of Family Care leave.

2. An FMLA eligible employee takes 3 weeks of Family Care leave to provide necessary care for their civil union partner who is suffering from a serious health condition. Later in the 12-month period, the employee desires to take FMLA leave for their own serious health condition or to provide necessary care for the employee's child who is suffering from a serious health condition (or for any other FMLA permitted reason). In this situation, the employee will have the full 12 weeks of FMLA leave available because the use of Family Care leave cannot reduce the amount of FMLA leave available.