



City of Pittsburgh  
Operating Policies

<b>Policy: Employee Leave of Absence</b>	<b>Original Date: 3/1983</b>
	<b>Revised Date: 05/2015</b>

**PURPOSE:** To establish guidelines for all City employees who need to take a leave of absence while complying with the Family and Medical Leave of 1993, leaves of absence pursuant to collective bargaining agreements and City Code 189.02 and military leaves of absence.

**POLICY STATEMENT:** The following policy addresses leaves of absence covered under the Family and Medical Leave Act of 1993 (FMLA), leaves of absence pursuant to collective bargaining agreements and City Code 189.02 and military leaves of absence.

Employees are required to complete and submit the appropriate leave of absence paperwork fifteen (15) days from the requested date for any absence of more than five (5) workdays. The Director of Personnel may approve a request to extend the deadline for submission of the leave of absence paperwork.

When a full time City of Pittsburgh employee requests time off from work, the employee must use any and all appropriate benefited leave time available. This will run concurrent with any approved leave. In no event shall an employee be noted as absent without pay for payroll and attendance purposes if the employee has appropriate benefited leave time (i.e. sick, vacation, personal or compensatory) available. Unauthorized absences are not permitted and may result in discipline up to and including termination.

Except as otherwise provided in collective bargaining unit agreements, all City of Pittsburgh full time employees absent from work without available benefited leave time (i.e. vacation, sick, personal or compensatory) will be considered Absent Without Leave (AWOL) and may be disciplined in accordance with the City of Pittsburgh's disciplinary process subject to the following exceptions:

- Where an employee has been approved for a leave of absence under the Family and Medical Leave Act of 1993;
- Where an employee has been approved for a leave of absence under an approved, short-term disability, long-term disability, or workers' compensation plan;

- Where an employee has been approved for a leave of absence based upon the statutory requirements under the Americans with Disabilities Act.

An employee who is absent from work under one or more of the above conditions must provide a written leave of absence request to his/her department head. The employee shall coordinate such leave request with his/her department head and the Employee Leaves Coordinator in the Department of Personnel and Civil Service Commission.

*Disclaimer: No statements in this policy are intended or set forth as contractual commitments or obligations of the City to any individual employee or group of employees, or to establish an exception to the employment-at-will doctrine beyond that specified in the Civil Service Statutes and Rules or pertinent collective bargaining agreement. If there are differences between the various collective bargaining agreements and this policy, the pertinent collective bargaining agreement takes precedence.*

## **FAMILY AND MEDICAL LEAVE**

Under the terms of the Family Medical Leave Act of 1993 (FMLA), the city of Pittsburgh provides eligible and qualified employees with up to twelve (12) weeks of paid/unpaid leave (while that employee's job remains protected and his or her health care benefits continue).

### **I. ENTITLEMENT TO LEAVE UNDER THE FMLA**

Before an employee may utilize FMLA leave, it must be determined if the employee is an "eligible employee" under the terms of the FMLA, and if the reason for leave is one of the five (5) qualifying reasons set forth in the FMLA.<sup>1</sup> An eligible City employee, meeting the criteria above, may be qualified for up to 12 weeks of paid/unpaid, job-protected leave during a **rolling** 12 month period.

The FMLA, as amended by the National Defense Authorization Act of 2008, also entitles eligible employees to take up to 26 weeks of unpaid family and medical leave in a "single 12-month period" to care for a spouse, child, parent, or next of kin, who is a military service member undergoing medical treatment, recuperation or therapy, is on out-patient status, or is on the temporary disabled retired list for a serious injury or illness.

An eligible employee is limited to a combined total of 26 weeks of leave for any FMLA-qualifying reason during a "single 12-month period". Only 12 of the 26 weeks total may be for an FMLA –qualifying reason other than to care for a covered military service member.

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<sup>1</sup> Eligibility requirements may vary based on terms of the employee's collective bargaining agreement.

The “single 12-month period” for leave to care for a covered military service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established by an employer for other types of FMLA leave.

#### **A. “ELIGIBLE EMPLOYEE” DETERMINATION**

In order to be eligible for leave under the FMLA, an employee with the City of Pittsburgh must have (1) worked for the City of Pittsburgh for at least twelve (12) months, **and** (2) worked at least 1,250 hours during the twelve (12) month period preceding the leave.

#### **B. QUALIFYING REASON**

Leave under the terms of the FMLA is available to eligible employees for one or more of the six (6) qualifying reasons:

- 1) Because of the birth of a son or daughter of the employee, or to care for the newborn child (within one year of birth);
- 2) Because of the placement of a child with the employee for adoption or foster care, or to care for the newly placed child (within one year of placement);
- 3) In order to care for an immediate family member (spouse, domestic partner,<sup>2</sup> child, or the employee’s parent) with a serious health condition;
- 4) Because of the employee’s own serious health condition; and
- 5) “Any qualifying exigency”<sup>3</sup> when the employee’s spouse, child or parent is on active duty or is notified of an impending call or order to active duty in the Armed Forces (including the Reserves and National Guard) in support of a “contingency operation”.

The FMLA defines “**serious health condition**” as an illness, injury, impairment, or physical or mental condition that involves:

- 1) any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility; or
- 2) a period of incapacity requiring absence of more than three (3) calendar days from work that also involves continuing treatment by a health care provider; or
- 3) any period of incapacity due to pregnancy, or for prenatal care; or

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<sup>2</sup> As defined in the Pittsburgh City Code, Title One, Chapter 186.

<sup>3</sup> As defined by the federal law, 10 USC § 101 (a) (13).

- 4) any period of incapacity (or treatment thereof) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc); or
- 5) 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, stroke, terminal illness, etc.); or
- 6) any illness that requires multiple treatments (including any period of recovery therefrom) by a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

## II. DURATION OF LEAVE

The FMLA provides eligible and qualified employees with up to twelve (12) weeks of paid/unpaid leave. For the duration of the employee's FMLA leave, his or her job will be protected and his or her health care benefits will continue. An employee's absence will begin to count toward his or her FMLA entitlement on the first day of the leave or on the first day the City becomes aware that the employee's leave is FMLA qualifying.

Eligible employees shall be entitled to twelve (12) weeks of leave in a **rolling** twelve (12) month period. In order to determine how many weeks of FMLA leave is available, the City will look back over the past twelve (12) months to determine how much, if any, of the employee's twelve (12) week FMLA entitlement has already been used. If the employee has used a portion of his or her FMLA entitlement in the previous twelve (12) months, he or she shall be entitled to take whatever portion of the twelve (12) weeks that remains available.

Example: On June 1, 2000, an employee requests to renew his or her FMLA leave. In the previous twelve (12) months, June 1, 1999 through June 1, 2000, the employee has used four (4) weeks in August of 1999 and four (4) weeks in November of 1999, a total of eight (8) weeks in the previous twelve (12) month period. Accordingly, as of June 1, 2000, employee has utilized eight (8) weeks of his or her twelve (12) week entitlement. Four (4) weeks remain available to the employee for his or her June 1, 2000 request.

It is important to note that FMLA leave will run concurrently with other paid leave unless the employee's collective bargaining agreement provides otherwise. If an employee is eligible for short-term disability benefits, his or her paid leave under either program will also be counted toward his or her twelve (12) week entitlement. Further, holidays that occur during an employee's FMLA leave are included as part of the employee's leave. Their occurrence does not increase the total twelve (12) week period.

For the duration of FMLA leave allowed to care for covered military service members, please refer to Section I, Entitlement To Leave Under The FMLA, of this policy.

### **III. COMPENSATION DURING LEAVE PERIOD**

**City employees taking leave for an FMLA qualifying reason must use their accrued paid leave before using unpaid leave, unless otherwise provided in the employee's collective bargaining agreement.** This includes accrued sick, personal, and compensatory time. Such paid leave will run concurrently with the employee's FMLA leave, and will be deducted from the employee's FMLA allotment.

### **IV. SCHEDULING OF LEAVE**

If entitled, available leave under the FMLA may be taken on a continuous, intermittent, or reduced schedule basis.

#### **A. INTERMITTENT OR REDUCED SCHEDULE LEAVE**

Intermittent or reduced schedule leave is permitted under the following circumstances:

- 1) Intermittent/reduced schedule leave may be taken when medically necessary to care for a seriously ill family member, as defined above, or because of the employee's own serious health condition.
- 2) Intermittent/reduced schedule leave may be taken to care for a newborn or newly adopted child or foster placement at the City's discretion.

#### **B. RESTRICTIONS ON INTERMITTENT AND REDUCED SCHEDULE LEAVE**

- 1) When intermittent/reduced schedule leave is needed for treatment of the employee's own serious medical condition or for the employee's immediate family member, the employee must attempt to schedule treatment so as not to unduly disrupt the regular operations of the City.
- 2) Leave to care for a newborn child or for a recently placed child for adoption or foster care is only permitted within the first twelve (12) months of the birth or placement.

## V. PROCEDURES FOR REQUESTING FMLA LEAVE

**In all cases, employees must complete two steps.**

(1) Obtain all necessary forms found online at

<http://www.pittsburghpa.gov/personnel/policies>

(2) Complete and submit the Leave of Absence Request and the Certification of Health Care Provider form, if necessary, to the City's Employee Leaves Coordinator, Department of Personnel and Civil Service Commission, 4<sup>th</sup> Floor, City-County Building.

### A. NOTIFICATION REQUIREMENTS

- 1) **Foreseeable Leave**-If leave is foreseeable, the employee must provide the City with thirty (30) days advance notice of his or her FMLA leave. The employee must complete and submit the Leave of Absence Request and a Certification of Health Care Provider form, if applicable, and submit to the City's Employee Leaves Coordinator, Department of Personnel and Civil Service Commission.
- 2) **Unforeseeable Leave**-If the need for leave is not foreseeable, the employee must notify the City as soon as the employee realizes he or she is in need of FMLA leave. **Complete and submit the Leave of Absence Request and the Certification of Health Care Provider form, if necessary, to the City's Employee Leaves Coordinator, Department of Personnel and Civil Service Commission.** Employees in need of unforeseeable leave will be given fifteen (15) calendar days to provide the appropriate medical documentation. *Failure to provide documentation will result in a denial of the requested leave.*
- 3) If an employee fails to adhere to the notice requirements set forth above, the employee may be considered absent without leave (AWOL) and may be subject to disciplinary action.

## **B. SUPPORTING DOCUMENTATION REQUIRED**

### **1) Leave for employee's own serious medical condition:**

- a) **Foreseeable Leave**-Employee must submit a completed Certification of Health Care Provider form with a Leave of Absence Request at least thirty (30) days prior to requested leave period.
- b) **Unforeseeable Leave**-Employee must submit completed Certification of Health Care Provider form within fifteen (15) days of the Leave of Absence Request.

### **2) Leave to care for an immediate family member:**

- a) **Foreseeable Leave**-Employee must submit a completed Certification of Health Care Provider form with a Leave of Absence Request at least thirty (30) days prior to requested leave period.
- b) **Unforeseeable Leave**-Employee must submit completed Certification of Health Care Provider form within fifteen (15) days of the Leave of Absence Request.

### **3) Leave to care for a newborn child, to care for an adopted child, or a child placed with the employee for foster care requires the submission of documentation evidencing the birth, adoption, or foster placement.**

## **C. CITY'S RESPONSE**

Upon receipt of an employee's completed Leave of Absence Request and the appropriate supporting documentation, the City will make a determination of the employee's eligibility and qualification, and approve or deny the request. The Director of the Department of Personnel and Civil Service Commission may provisionally approve a leave pending the submission of the Certification of Health Care Provider form.

If the employee fails to provide the required medical documentation within the fifteen (15) day period discussed above, the City may revoke the provisional leave. The Director of the Department of Personnel and Civil Service Commission will notify the employee and the employee's Director (and Bureau Chief, if applicable) of the revocation immediately. The employee may then be marked absent without leave (AWOL) and may be subject to disciplinary action.

## **VI. EMPLOYEE RESONSIBILITIES WHILE ON FMLA**

### **A. RE-CERTIFICATION OF MEDICAL CONDITION**

- 1) The City may require an employee taking leave for his/her own serious medical condition, or to care for a family member, to provide periodic re-certification of the employee's, or his or her family member's, medical condition. The employee will have fifteen (15) days from the date of the request to provide the updated medical information to the City.
- 2) The City will require periodic medical reports when one or more of the following circumstances occur:
  - a) When additional leave is requested;
  - b) When the duration of the illness or condition necessitating the leave is indefinite and no return to work date has been provided;
  - c) When the City becomes aware that there has been a change in the circumstances giving rise to the reason necessitating the leave; or
  - d) When the City learns of any information which calls into question the validity of the need for leave.

### **B. NO OUTSIDE EMPLOYMENT**

All City employees taking leave for their own serious health condition are prohibited from engaging outside employment during a period of leave covered by this policy.

## **VII. RETURNING TO WORK UPON THE EXPIRATION OF LEAVE**

### **A. RETURN TO WORK PHYSICAL EXAM**

If required for the employee's particular position, the employee returning from leave under the FMLA may be required to undergo a return to work physical. Employees must bring a full duty release from their treating physician when returning from a leave of absence for an illness or injury.

### **B. JOB RESTORATION**

The FMLA provides job security for those employees eligible to take leave. Upon return from FMLA leave, a City employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment, unless the employee has been previously notified that he or she is a "key employee" as defined by the FMLA. If an employee has been placed on notice that he or she is a "key employee", restoration to his or her original job, or an equivalent job, may be denied.

### **C. MAINTENANCE OF HEALTH BENEFITS**

The City of Pittsburgh is required to maintain group health insurance coverage for an employee on FMLA leave on the same terms as if the employee had continued to work. If employee contributions toward healthcare are normally deducted from the employee's paycheck, the City will invoice the employee for any deductions while on unpaid leave. **However, the City of Pittsburgh may seek to recover premiums paid by the City on behalf of the employee should the employee fail to return to work from FMLA leave.**

## OTHER LEAVES OF ABSENCE

If an employee exhausts his or her available leave under the FMLA, or is not entitled to leave under the FMLA, leave may be available to the employee under the terms of his or her bargaining agreement, or §189.02 of the Pittsburgh Code. In the event an employee is able to obtain additional leave under the terms of his or her bargaining agreement, or pursuant to §189.02 of the Pittsburgh Code, the amount of additional leave available will be offset by the employees twelve (12) weeks of FMLA leave.

### **I. COLLECTIVE BARGAINING AGREEMENTS**

Leave of Absence provisions, as provided through various collective bargaining agreements between the City and the unions representing City employees, may vary. Please refer to your bargaining agreement, as applicable, for specific language governing leaves of absence. **A statement explaining the reason for the request and expected length of leave must be submitted along with the leave of absence form. Medical documentation from a physician or medical practitioner is also required, if the leave is for medical reasons.**

### **II. CITY CODE 189.02 LEAVES WITHOUT PAY**

The heads of the various departments may grant leaves of absence without pay for a period not to exceed six (6) months which may be renewed for an additional period not to exceed six (6) months without pay and which shall be in conformity with Civil Service Commission regulations. **A statement explaining the reason for the request and expected length of leave must be submitted along with the leave of absence form. Medical documentation from a physician or medical practitioner is also required, if the leave is for medical reasons.**

### **III. MILITARY LEAVE OF ABSENCE**

Employees who are members of the Reserves Component of the United States Army, Navy, Marines, Air Force, Coast Guard or National Guard may request leave for annual training. **If available, the request should include a copy of the employee's orders to report for duty.**

The leave request must be for the time specified in the orders and shall not exceed fifteen workdays in any one calendar year. There is no loss of pay during this period. Longer-term military leaves are unpaid.

Employees required to report for active military duty may be offered more comprehensive benefits based on current City of Pittsburgh legislation. For more information, call the Department of Personnel & Civil Service at (412) 255-2705.

#### **IV. PROCEDURES FOR REQUESTING OTHER LEAVES OF ABSENCE**

**In all cases, employees must complete two steps.**

**(1)** Obtain all necessary forms found online at

<http://www.pittsburghpa.gov/personnel/policies>

**(2)** Complete and submit the Leave of Absence Request and the Certification of Health Care Provider form, if necessary, to the City's Employee Leaves Coordinator, Department of Personnel and Civil Service Commission, 4<sup>th</sup> Floor, City-County Building.