

CITY OF GAINESVILLE

LEGISLATIVE FILE NO. 090461A

Policies and Procedures

Number 13

LEAVE OF ABSENCE WITH OR WITHOUT PAY

I. General Information:

Leaves of absence may be paid or unpaid, depending upon the circumstances of the leave and whether the employee has accrued applicable paid leave available. Two categories of leaves of absence are described herein.

A. Leaves of absence will be granted for Family and Medical Leave (FMLA) -see Section VI.

B. Leaves of absences may be granted under conditions similar to FMLA for employees to care for Registered Domestic Partners.

~~B~~ C. Leaves of absence may be granted for Personal Leave - see Section XII.

II. Leave Request Procedure:

Employees are expected to be familiar with and are required to follow the leave procedures as outlined in this Article. Leave requests for less than one (1) full pay period should be requested with a Leave Request Form (LRF). Employees may be required to daily or otherwise report on his/her status and intention to return to work and may be subject to loss of benefits and/or discipline for failure to do so.

III. Continuity of Service:

Any leave without pay which is approved in accordance with these procedures shall not constitute a break in service, but may result in an adjustment to the employee's leave progression date and the employee's performance review and merit increase (if eligible) date. If the leave is for ninety (90) days or longer, the employee's pension service date will also be affected.

IV. Expiration of Leave and Reinstatement:

Reinstatement is dependent upon the type of unpaid leave. Refer to the appropriate section for more information.

V. Extension of Leave:

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LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

If an extension of the leave is required, a request for the extension must be submitted in writing at least five (5) days in advance of the leave expiration or as soon as practical. Consideration of an extension will be based on the same criteria as the original request. Failure to return to work at the expiration of the leave may result in termination.

VI. Family and Medical Leave:

A. ~~In compliance with the Federal Family and Medical Leave Act of 1993, effective August 5, 1993,~~ Eligible employees may take a maximum of twelve (12) weeks of family and medical leave in their FMLA leave year. This leave may be paid if applicable leave is available or the leave may be unpaid. The FMLA Leave Year is defined as the twelve- (12-) month period measured forward from January 1 each year. For additional general information regarding rights and responsibilities under the FMLA follow this link:

<http://www.dol.gov/esa/whd/fmla/finalrule/FMLAPoster.pdf>

FMLA will be granted for:

A 1. The birth of a child and care for a child within twelve (12) months following a birth.

B 2. The placement of a child with the employee. Leave must be taken within twelve months following placement.

C 3. To care for the spouse, child, or parent of the employee who has a "serious health condition".

D 4. If the employee is unable to perform his or her own job because of the employee's own serious health condition.

5. Because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation, as a member of the reserves or retired member of the Regular Armed Forces or Reserves.

B. An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember, as defined by the FMLA, who is recovering from a

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LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

serious illness or injury sustained in the line of duty on active is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This military caregiver leave is available during "a single 12-month period" during which an employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

The aggregate number of workweeks of leave to which both husband and wife may be entitled under this subsection may be limited to 26 workweeks during the single 12-month period described in this subsection B if the leave is

(i) leave under subsection B; or

(ii) a combination of leave under subsection A and leave described in B

C. Eligibility Requirements

Employees are generally eligible if they have worked for the City for at least one year and for 1,250 hours over the 12 months previous to the leave.

D. Definitions of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Slightly different requirements apply in the case of covered servicemembers.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regiment of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. For further information contact Employee Health Services or the Human Resources Department.

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

E. Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when certified as medically necessary. Employees must make a reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

F. Substitution of Paid Leave for Unpaid Leave

The City generally requires use of accrued paid leave while taking FMLA leave (see Section VIII). In order to use paid leave for FMLA leave, employees must comply with the City's normal paid policies.

G. Employee Responsibilities

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 comply with call-in procedures applicable to employee.

Employees must provide sufficient information for the City 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 and information on symptoms, diagnosis, hospitalization, doctor results, whether medication has been prescribed, any referrals for treatment (physical therapy, for example) any other regimen of continuing treatment, 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. Employees also may be required to provide a certification and periodic recertification supporting the need for leave. Documentation must be provided in a timely manner, utilizing the forms provided by the City, or FMLA leave may be denied, use of paid leave may be denied, employees will lose job benefits and protections, and may be subject to disciplinary action.

Employees with questions about what illnesses/conditions are covered by this section of the policy or under the City's leave policies are encouraged to consult with the Human Resources or Risk Management Departments.

Page 4 of 13

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LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

~~VII. Eligibility:~~ Reserved:

~~Employees must have been employed by the City a minimum of twelve (12) months, which do not need to be consecutive, and must have provided at least 1,250 hours of service in the twelve (12) months before the leave is to begin.~~

~~If an absence is related to a medical condition of the employee or a qualifying family member, or the birth, placement or adoption of a child, the City may require an employee to provide a doctor's certification of serious health condition or proof of the birth, placement or adoption. Documentation of relationships or illnesses will be required in a timely manner. Failure to provide required documentation may result in denial of paid leave or other disciplinary action. Medical leave certification will be provided using the Medical Certification Form from Employee Health Services.~~

VIII. Conditions:

Leave without pay for one (1) full pay period or more will not be considered time worked for purposes of accruing seniority, longevity, vacation, sick or other employee benefits, including PTO for employees in the new leave system.

Employees may take Family and Medical Leave in twelve (12) consecutive weeks, may use the leave intermittently ~~(take a day periodically when needed over the year)~~, or under certain circumstances may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. ~~In all cases~~ Except for care for a covered service-member, the FMLA-covered leave may not exceed a total of twelve (12) weeks in the twelve- (12-) month period measured forward from January 1. However, for the birth, placement, ~~or~~ adoption of a child, or ~~well newborn care bonding/well newborn care~~ after such, the City and the employee must mutually agree to the schedule before the employee may take leave intermittently or work a reduced hour schedule.

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the employee is qualified for the position and if the alternative position would better accommodate the intermittent or reduced schedule.

~~The employee may be required to report periodically on his/her status and intention to return to work.~~

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

If an employee out on regular paid leave seeks to extend that leave under the provisions of the Family and Medical Leave Act, the City may classify and apply leave already taken towards the employee's twelve- (12-) week total upon appropriate information from the employee.

The employee's position may be filled by a temporary appointment or assignment of another employee. At the expiration of the leave, the employee shall be reinstated in the position vacated, if it exists and reinstatement is otherwise warranted.

Except as provided herein, the employee, upon returning to work from a medical leave, must report to Employee Health Services. The employee may be required to submit a written approval from his/her health care provider stating the employee is approved to return to work. The employee may be required to complete a fitness for duty examination related to the serious health condition for which the employee was absent on FMLA leave.

While the employee is on ~~FMLA~~ medical leave, the City will continue the employee's health benefits during the leave period at the same level of benefits and under the same conditions as if the employee had continued to work. ~~Under current City procedures, a~~ An employee on paid medical leave continues to pay the contribution rate via payroll deduction as when an active employee. An employee on unpaid ~~Family and Medical~~ Leave continues to pay the contribution as when an active employee. In this case, ~~the~~ employee must continue to make this payment either in person or by mail to the City's Risk Management Department. Payment must be received by the last day of the month prior to each month of coverage. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped. ~~for the duration of the leave. The City will notify the employee in writing at least 15 days before the date that health coverage is retroactively cancelled, or at the City's option, it may pay the employee's share of the premiums during unpaid medical leave and recover those payments from employee upon employee's return to work.~~

If the employee chooses not to return to work for reasons other than a continuation, recurrence, or onset of a FMLA qualifying serious health condition or for other circumstances beyond the control of the employee, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period: through deducting from any sums due employee arising out of the employment relationship, or by initiating legal action against the employee to recover such costs.

IX. How available paid leave is applied to an FMLA qualifying absence:

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

A. PTO (Policy 8) – for employees hired on or after October 1, 2000, or for employees hired prior to October 1, 2000 who elect the Paid Time Off (PTO) leave plan.

1. For Employee's Own Illness: The first sixteen (16) hours of each FMLA qualifying absence for the employee's own serious health condition will be charged against the employee's Paid Time Off (PTO) bank. Should the employee have an insufficient PTO balance to cover the first sixteen (16) hours of absence(s), such absence will be charged to the employee's PCLB account, then leave without pay. If an employee has more than one qualifying FMLA absence, or is using FMLA leave on an intermittent basis, the maximum number of hours charged to PTO will be 96 hours during that leave year. Any subsequent FMLA qualifying time off during that leave year will be charged against the employee's Personal Critical Leave Bank (PCLB); then leave without pay. In the case of an FMLA qualifying absence as a result of a compensable injury, after exhaustion of injury leave eligibility, the first sixteen (16) hours may be taken as PCLB. ~~If an absence will extend beyond 480 hours in the leave year, the employee must apply for a Personal Leave (Section XI).~~

2. For FMLA qualified absence for the serious health condition(s) of the employee's qualifying family member: ~~The maximum hours of paid leave shall be 480 hours in the leave year except as may be allowed pursuant to Section XI.~~ The first sixteen (16) hours of each qualifying absence(s) will be charged to PTO. If an employee has more than one qualifying FMLA absence, or is using FMLA leave on an intermittent basis, the maximum number of hours charged to PTO will be 96 hours during that leave year. Should the employee have an insufficient PTO balance to cover the first sixteen (16) hours of absence(s), the remainder of such sixteen hours (16) will be leave without pay; any subsequent hours of absence after the first sixteen (16) hours shall be charged to the employee's PCLB account; then leave without pay. If an absence will extend beyond 480 hours in the leave year, or caregiver leave period; the employee must apply for a Personal Leave (Section XI).

3. For the birth, placement, ~~or~~ adoption or bonding/well newborn care after such, well child care of a newborn of a child: ~~the maximum~~ first sixteen (16) hours of each qualifying absence will be charged to PTO ~~paid leave shall be sixteen (16) hours of PTO and 464 hours of PCLB for a total of 480 hours in the leave year.~~ If an employee has more than one qualifying FMLA absence, or is using FMLA leave on an approved intermittent basis or reduced schedule basis, the maximum number of hours charged to PTO will be 96 hours during that leave year. Should the employee have an insufficient PTO balance to cover the first sixteen (16) hours of absence(s), such absence will be leave without pay; any subsequent hours of absence after the first sixteen (16) hours shall be charged to the employee's PCLB account, then PTO, then leave without pay. The maximum hours of paid leave shall be 480 and any approved absence beyond 480 hours in the leave year shall be leave without pay.

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

B. Designated Leave System (Policy 9):

Except as provided below, All applicable accrued vacation and sick leave must be exhausted before going into unpaid leave status. An employee may use up to a maximum of 480 hours of the employee's accrued sick leave in the leave year, for illness of a member of the employee's immediate family (defined as spouse, certified domestic partner, dependent child(ren), mother or father) living in the same domicile in the employee's leave year, as defined in the Designated Leave System (Old Leave System) Policy.

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For employees in the sick leave/vacation leave system, employees are required to use sick leave, and in the absence of sick leave, vacation leave for absences due to their own or family member's serious health condition. In the case of absences due to a compensable accident, after wage loss payments start, employees may choose whether or not to supplement the wage loss payments with sick leave, then vacation. Employees may utilize sick leave or vacation in lieu of sick leave for adoption, placement, birth, or bonding/well newborn care after such, within 6 weeks after adoptions or birth, for up to 96 hours of such paid leave. Upon exhaustion of sick leave prior to utilizing 96 hours, the employee will be required to use vacation in lieu of sick for up to the remainder of that period, after which time unpaid leave, or vacation in accordance with departmental notice procedures could be taken for the remainder of the FMLA entitlement period. Alternatively, the employee may take only unpaid leave for all absences due to adoption or birth and newborn care, or take vacation leave in accordance with departmental notice procedures.

C. Parental Leave:

~~In instances of parental leave, for the care and custody of the employee's natural or adoptive newborn infant, sick leave up to fifty percent (50%) of that available in the pay period prior to the date of birth, or one hundred four (104) hours (whichever is greater) may be taken during the first six (6) weeks following the infant's birth.~~

~~Management may require confirmation of the illness, birth, or adoption from the employee by furnishing a doctor's certificate, birth certificate, or any other means deemed appropriate.~~

X. FMLA₁ Partner leave₁ definitions:

Child: includes a biological, adopted or foster child, stepchild, a legal ward, or a child for whom the employee stands in loco parentis (i.e., in the place of a parent) who is

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

under eighteen (18) years of age; or eighteen (18) years of age or older and incapable of self care because of a mental or physical disability. (FMLA)

Parent: means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. (FMLA)

Serious Health Condition: A serious health condition is an illness, injury, impairment, or physical or mental condition that involves: (FMLA and Partner)

A. inpatient care at a hospital, hospice, or residential medical care facility, or

B. continuing treatment by a health care provider.

Leave Year: The twelve- (12-) month period measured forward from ~~the employee's leave progression date each year~~ January 1 each year, except in the case of covered servicemember caregiver leave (see VI B).

XI. Registered Domestic Partner medical leave (Partner)

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- A. Eligible employees may take a maximum of twelve (12) weeks of Partner medical leave in the FMLA leave year. Eligible employees may also take covered servicemember caregiver leave, if the covered servicemember is the eligible employee's Registered Domestic Partner, for a maximum 26 weeks as described in VI B. In all cases Partner leave and FMLA leave combined may not exceed a total of twelve (12) weeks in the FMLA leave year (for care for Partners who are covered servicemembers twenty-six (26) weeks in the covered servicemember leave period), as the case may be, unless otherwise required by law. This leave may be paid if applicable leave is available or the leave may be unpaid. The FMLA Leave Year is defined as the twelve- (12-) month period measured forward from January 1 each year.

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Partner leave will be granted for: and under the same conditions as FMLA leave to care for a spouse, or covered servicemember.

1. To care for the Registered Domestic Partner of the employee who has a "serious health condition".

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

~~Employees with questions about what illnesses are covered by this section of the policy or under the City's leave policies are encouraged to consult with the Human Resources Department.~~

~~B. Eligibility:~~

~~Employees must have been employed by the City a minimum of twelve (12) months, which do not need to be consecutive, and must have provided at least 1,250 hours of service in the twelve (12) months before leave is to begin.~~

~~If an absence is related to a medical condition of the employee's Registered Domestic Partner, the City may require an employee to provide a doctor's certification of serious health condition. Documentation of relationships or illnesses will be required in a timely manner. Failure to provide required documentation may result in denial of paid leave or other disciplinary action. Medical leave certification will be provided using the medical Certification Form from Employee Health Services.~~

~~C. Conditions:~~

~~Leave without pay for one (1) full pay period or more will not be considered time worked for purposes of accruing seniority, longevity, vacation, sick or other employee benefits, including PTO for employees in the new leave system.~~

~~Employees may take Partner Leave in twelve (12) consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year), or under certain circumstances may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, Partner leave and FMLA leave combined may not exceed a total of twelve (12) weeks in the twelve (12) month period measured forward from January 1, unless otherwise required by law.~~

~~The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the employee is qualified for the position and if the alternative position would better accommodate the intermittent or reduced schedule. The employee may be required to report periodically on his/her status (and the condition/status of the Partner) and intention to return to work.~~

~~If an employee out on regular paid (sick or PCLB) leave attributable to care for a Registered Domestic Partner and seeks to extend that leave under the provision of~~

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

~~Partner Leave, the City may classify and apply this paid leave already taken for this purpose to the employee's twelve (12) week maximum of Partner leave upon appropriate information from the employee.~~

~~The employee's position may be filled by a temporary appointment or assignment of another employee. At the expiration of the leave, the employee shall be reinstated in the position vacated, if such still exists and the employee is qualified.~~

~~While the employee is on Partner leave, the City will continue the employee's health benefits during the leave period at the same level of benefits and under the same conditions as if the employee had continued to work. Under current City procedures, an employee on paid leave continues to pay the contribution rate via payroll deduction as when an active employee. An employee on unpaid Partner Leave continues to pay the contribution as when an active employee. The employee must continue to make this payment either in person or by mail to the City's Risk Management Department. Payment must be received by the last day of the month prior to each month of coverage. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped for the duration of the leave.~~

~~If, at the cessation of the need to care for the Partner's serious health condition, or the expiration of Partner leave, the employee chooses not to return to work for reason of an absence attributable to other than a continuation, recurrence, or onset of a serious health condition of the employee for which the employee has FMLA leave available, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.~~

~~D. How available paid leave is applied to partner leave~~

~~1. PTO (Policy 8) — for employees hired on or after October 1, 2000, for employees hired prior to October 1, 2000 who elect the Paid time Off (PTO) leave plan.~~

~~For Partner leave: The maximum hours of paid leave for FMLA and Partner leave shall be 480 hours in the leave year. The first sixteen (16) hours of each absence(s) due to Partner leave will be charged to PTO and then after (sixteen) 16, then PCLB up to the maximum, then leave without pay. The maximum number of Partner leave hours charged to PTO will be 96 hours during the leave year. Should the employee have an insufficient PTO balance to cover the first sixteen (16) hours of absence(s), such absence will be approved leave without pay; any subsequent hours after the first 16 of the absence(s) shall be charged to the employee's PCLB account. If partner leave absence will extend beyond total FMLA and Partner 480 hours in the leave year, the employee must apply for a Personal Leave (Section XI).~~

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

~~2. Designated Leave System (Policy 9):~~

~~All applicable accrued vacation and sick leave must be exhausted before going into unpaid leave status. An employee may use up to a maximum of 480 hours of the employee's accrued sick leave in the leave year, for illness of a member of the employee's immediate family (defined as spouse, registered domestic partner, dependent child(ren), mother or father) living in the same domicile, in the employee's leave year, as defined in the Designated Leave System (Old Leave System) Policy.~~

~~XI XII.~~ Personal Leave:

- A. An employee may be granted a Personal Leave for a period of time not to exceed a total of one (1) year, for the following reasons:

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A 1. Health or family related problems not defined within FMLA Policy, or beyond the time limits of the FMLA or beyond to scope of leave available to care for Registered Domestic Partners.

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~~B~~ 2. Education

~~C~~ 3. Military leave not covered under Military Leave Policy

~~D~~ 4. Extenuating personal reasons

- B. Conditions:

Employees must apply for Personal Leave in writing at least ten working days prior to the beginning of the leave. Personal Leave may be granted and if granted may be paid, unpaid, or a combination of paid and unpaid leave. Prior to being placed on unpaid Personal Leave under this section, employees in the old leave system (Policy 9) must first exhaust all accrued vacation and personal leave; employees in the new leave system (Policy 8) must first exhaust all applicable, accrued PTO. PCLB hours may be applicable to health or family related problems not defined within FMLA Policy, or beyond the time limits of the FMLA, or beyond the scope of leave available to care for Registered Domestic Partners.

LEAVE OF ABSENCE WITH OR WITHOUT PAY

POLICY No. 13

Unpaid leave for one (1) full pay period or more will not be considered time worked for purposes of accruing seniority, longevity, vacation, sick, or paid time off (PTO).

During an employee's approved Personal Leave, his/her position may be filled by a temporary appointment, or permanent assignment of another employee. At the expiration of the leave, the employee shall be reinstated to the employee's regular position vacated if it has not been filled permanently during the leave. If the position has been filled, then the employee will be reinstated to another position which is vacant and for which the employee is qualified. The replacement position shall not be at a higher wage rate than the position from which the leave was granted. Refusal of a vacant position offered by the City shall result in the termination of the employee.

The employee shall not accept part-time or full-time employment elsewhere while on leave of absence unless such employment was previously approved and is not conducted during the employee's normal working hours.

To return to work the employee must report to Employee Health Services and the employee may be required to submit a written approval from their health care provider releasing them for work. The employee may be required to complete a health examination.

An employee on unpaid personal leave must contact the City of Gainesville's Risk Management Department to obtain a COBRA Notification Form. The COBRA Notification Form outlines the terms and conditions of the Consolidated Omnibus Budget Reconciliation Act, COBRA rates, when payments are due, and where payments are to be mailed. Payment must be received by the last day of the month prior to each month of coverage. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped. The City will notify the employee in writing at least 15 days before the date that health coverage retroactively is cancelled, or at the City's option, it may pay the employee's share of the premiums during the unpaid medical leave and recover those payments from employee upon employee's return to work. If the employee chooses not to return to work, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period through deducting from any sums due employee arising out of the employment relationship, or by initiating legal action against the employee to recover such costs.

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