

Leaves of Absence

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FAMILY AND MEDICAL LEAVE

It is the policy of the City of San Jose (“City”) to comply with the provisions of the federal Family and Medical Leave Act and the California Family Rights Act. Rights and obligations which are not specifically addressed in this policy are incorporated in by reference. Employees may also be entitled to other leave benefits to the extent they are eligible under other City policies, Memorandum of Agreement (“MOA”), or Benefits and Compensation Summary.

AUTHORITIES

Provisions in applicable Memoranda of Agreement (MOA) regarding leaves without pay supersede this general policy.

Family and Medical Leave Act (Title 29, Part 825 of the Code of Federal Regulations)

An employee who has at least twelve (12) months of service with the City and worked at least 1,250 hours in the prior twelve (12) month period has a right to an unpaid family care or medical leave of up to twelve (12) workweeks in a twelve (12) month period for the birth, adoption or foster care placement of a child; or for his or her own serious health condition or that of a child, parent or spouse.

The Family and Medical Leave Act also provides an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember the right to take up to twenty-six (26) workweeks of leave to care for the covered servicemember with a serious injury or illness.

An eligible employee also has the right to leave under the Family and Medical Leave Act because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

California Family Rights Act (California Code, Title 2, Division 4, §7297.0 et seq.)

An employee who has been employed for a total of at least twelve (12) months with the City and worked at least 1,250 hours in the prior twelve (12) month period, has a right to an unpaid family care or medical leave of up to twelve (12) workweeks in a twelve (12) month period for the birth, adoption, or foster care placement of a child; or for his or her own serious health condition or that of a child, parent, spouse, or registered domestic partner*.

Leave under the California Family Rights Act runs concurrently with any leave under the Family and Medical Leave Act of 1993, except for pregnancy disability leave, and some forms of leave for servicemembers and qualifying exigency leave.

*“Registered domestic partner” means a domestic partnership established under California Family Code sections 297 through 297.5, which requires both persons to file a Declaration of Domestic Partnership with the Secretary of State. The City also recognizes a domestic partnership registered with Human Resources.

Leaves of Absence**4.2.1****POLICY****A. Eligibility**

Pursuant to the federal Family Medical Leave Act (“FMLA”) and California Family Rights Act (“CFRA”), an employee is eligible for an unpaid family care or medical leave of up to twelve (12) workweeks in a twelve (12) month period if the employee has been employed for a total of at least twelve (12) months with the City and has worked for the City at least 1,250 hours during the twelve (12)-month period immediately preceding the commencement of the leave.

B. Reasons for FMLA/CFRA Leave

The twelve (12) workweek allowance during a twelve 12-month period includes any time taken (with or without pay) for any of the following reasons:

- a. For the birth of the employee’s son or daughter and to care for the newborn child;
- b. To care for a child placed with the employee for adoption or foster care;
- c. To care for the employee’s child, spouse, registered domestic partner (CFRA only), or parent who has a serious health condition;
- d. The employee’s own serious health condition that makes the employee unable to perform the essential functions of the employee’s position; and
- e. Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.*

If an employee takes a leave of absence for any reason which is also FMLA/CFRA qualifying, the City will designate that non-FMLA/CFRA leave as running currently with the employee’s 12-week FMLA/CFRA leave entitlement, including Worker’s Compensation leave.

Time off from work because of an employee’s disability due to pregnancy, childbirth or related medical condition, however, is not counted as time used for CFRA leave, but is counted as time used for FMLA leave. Please see the Pregnancy Disability Leave section for additional information.

If FMLA/CFRA leave is requested for the birth, adoption, foster care placement of a child of the employee, the leave must be concluded within one (1) year of the birth, adoption or placement of the child. If both parents are employed by the City, each employee will be entitled to twelve (12) workweeks of leave for the birth, adoption or foster care placement of the child.

*Leave relating to military servicemembers and “qualifying exigency” leave under FMLA is addressed in a separate section herein.

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A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity and any subsequent treatment in connection with such inpatient care; or (2) continuing treatment by a health care provider. A serious health condition may include injuries or illnesses qualifying for Workers’ Compensation benefits and/or leaves.

D. Computing the Twelve (12)-Month Period

The method for computing the twelve (12)-month period in which the twelve (12) weeks of leave entitlement occurs is based on a “rolling” twelve (12)-month period measured backward from the date the employee uses any FMLA/CFRA leave.

E. Employee Notice of Leave

Employees must provide not less than thirty (30) days’ notice before any FMLA/CFRA leave is to begin for foreseeable childbirth (including leave to care or bond with a child), placement, or any planned medical treatment for the employee or his or her spouse, child, parent or registered domestic partner. If thirty (30) days’ notice is not practicable, notice must be given as soon as practicable.

For purposes of confirmation of family relationship, the City may require the employee giving notice of the need for leave to provide reasonable documentation of family relationship. This documentation may take the form of a simple statement from the employee, a child’s birth certificate, a court document or other similar documentation as requested by the City.

F. Medical Certification

An employee requesting FMLA/CFRA leave because of his or her own serious health condition or for the serious health condition of an immediate family member must provide medical certification from a health care provider.

A completed Medical Certification form, or a doctor’s note containing the information requested in the Medical Certification form, must be submitted in a sealed envelope marked CONFIDENTIAL. The address to submit the completed Medical Certification form or equivalent doctor’s note is:

The City of San José
Human Resources – Employee Benefits
200 East Santa Clara Street, 2nd Floor Wing
San José, CA 95113

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Medical certification must be received by Human Resources as follows:

1. For foreseeable events: An employee must provide the required medical certification before the leave begins.
2. For non-foreseeable events: An employee must provide the required medical certification within fifteen (15) calendar days after the City's request for certification.

Failure to provide the required medical certification within fifteen (15) days of the City's request may result in denial of the leave. An employee's request for an extension or early return from an FMLA/CFRA leave must also be supported by updated medical certification.

G. Intermittent Leave or Reduced Leave Schedule

An employee may take intermittent or reduced leave if the leave is for the employee's own serious health condition or that of the employee's child, parent, spouse, or registered domestic partner and the intermittent leave schedule is medically necessary as determined by the health care provider of the person with the serious health condition.

If intermittent leave is taken for the birth of the employee's child or the placement of a child with the employee for adoption or foster care, the minimum duration of leave is two (2) weeks, except that the City will grant a request for FMLA/CFRA leave of less than two (2) weeks' duration on any two (2) occasions. Any FMLA/CFRA leave taken must be concluded within one (1) year of the birth or placement of the child with the employee.

If leave is taken intermittently or on a reduced schedule, the City retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee's leave schedule.

H. Use of Paid Leave During FMLA/CFRA Leave

1. For the employee's own serious health condition

- a. An employee **MUST** use and exhaust all accrued sick leave and then use and exhaust all accrued vacation leave at the beginning of any otherwise unpaid FMLA/CFRA leave. This requirement is waived during the period the employee is on FMLA/CFRA leave for his or her own serious health condition and is receiving wage replacement benefits, including Long Term Disability Insurance benefits.
- b. An employee **MAY** elect to use accrued sick leave and vacation leave during the period of receipt of wage replacement benefits, including Long Term Disability Insurance benefits, unless otherwise prohibited by law.
- c. An employee **MAY** elect to use executive leave, personal leave or compensatory time during any portion of otherwise unpaid FMLA/CFRA leave.

2. For the non-medical care of employee's newborn child or child placed with employee for adoption or foster care (commonly for the purpose of bonding with the child)

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- a. An employee **MUST** use and exhaust all accrued vacation leave at the beginning of any otherwise unpaid FMLA/CFRA leave.
 - b. An employee **MAY** elect to use executive leave, personal leave or compensatory time during any portion of otherwise unpaid FMLA/CFRA leave.
- 3. For the care of an immediate family member (employee's child, spouse, registered domestic partner, or parent) who has a serious health condition**
- a. An employee **MAY** elect to use accrued sick leave pursuant to the terms and conditions under the applicable MOA or Benefit & Compensation Summary for Management/Professional Employees.
 - b. An employee **MUST** use and exhaust all accrued vacation leave at the beginning of any otherwise unpaid FMLA/CFRA leave.
 - c. An employee **MAY** elect to use executive leave, personal leave, or compensatory time during any portion of otherwise unpaid FMLA/CFRA leave.

The substitution of paid leave for FMLA/CFRA leave does not extend the total duration of such leave to which an employee is entitled to beyond twelve (12) weeks in a twelve (12)-month period.

Employees on leave accrue employment benefits, such as sick leave, vacation benefits, and retirement service credit, only when paid leave from the City is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

I. Health Benefits and Insurance Premiums

While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee continued to work. The employee is responsible for his or her portion of health benefits and insurance premiums. If accrued vacation leave, accrued sick leave, personal leave, executive leave and/or compensatory time are used during a FMLA/CFRA leave, the City will make payroll deductions to collect the employee's portion of health benefits and insurance premiums. If the employee is on unpaid leave, the employee must continue to make payments of his or her share of health benefits and insurance premiums, either in person or by mail. The payment must be received by the first day of each month. If the payment is more than thirty (30) days late, the employee's health and insurance benefits may be dropped for the duration of the leave. The City will provide at least fifteen (15) days' notification prior to the employee's loss of coverage. Please see Procedures below.

If the employee does not return from a FMLA/CFRA leave, the City can recover its share of health benefit premiums paid by the City during unpaid periods of FMLA/CFRA leave.

Leaves of Absence**4.2.1****J. Seniority**

An employee on unpaid FMLA/CFRA leave remains an employee and the leave will not constitute a break in service. An employee who returns from an unpaid FMLA/CFRA leave will return with the same seniority he or she had when the leave commenced. To the extent that any accrued sick leave, accrued vacation leave, executive leave, personal leave and/or compensatory time are used during FMLA/CFRA leave, the employee will accrue seniority service credit during the portion of such paid leave.

K. Return to Work

Before an employee will be permitted to return from a FMLA/CFRA leave taken because of the employee's own serious health condition, the employee may be requested to provide certification from his or her health care provider that he or she is able to return to work.

If the employee can return to work with limitations, the City will evaluate those limitations and, if possible, will accommodate the employee as required by law.

Employees returning from a FMLA/CFRA leave are entitled to reinstatement to the same or comparable position consistent with applicable law, Memorandum of Agreement or Benefits and Compensation Summary.

L. Limitations of Reinstatement

The City may refuse to reinstate a "key" employee if the refusal is necessary to prevent substantial and grievous economic injury to the City's operations. See 29 C.F.R. 825.216 and Cal. Gove Code §12945.2. A "key" employee is an exempt salaried employee who is among the highest paid ten percent (10%) of the City's employees.

A "key" employee will be advised in writing at the time of a request for, or if earlier, at the time of commencement of, FMLA/CFRA leave, that he or she qualifies as a "key" employee and the potential consequences with respect to reinstatement or maintenance of health benefits if the City determines that substantial and grievous economic injury to the City's operations will result if the employee is reinstated from FMLA/CFRA leave. At the time it determines that refusal is necessary, the City will notify the "key" employee in writing of its intent to refuse to reinstatement and will explain the basis for finding that the employee's reinstatement would cause the City to suffer substantial and grievous economic injury. If the City realizes after the leave has commenced that refusal of reinstatement is necessary, it will give the employee at least ten (10) days to return to work following the notice of its intent to refuse reinstatement.

Leaves of Absence**4.2.1****M. Servicemember Family and Medical Leave****1. Servicemember Leave Entitlement**

Servicemember FMLA provides eligible employees unpaid leave for the following reasons:

- a. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve (12)-month period to care for the covered servicemember with a serious injury or illness.
 1. The term “covered servicemember” means 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 outpatient status, or is otherwise in the temporary disability retired list, for a serious injury or illness; or 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, at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
 2. The term “veteran” means a person who served in the active military, naval, or air service, and who was discharged or released from under conditions other than dishonorable, as provided under 38 U.S.C. Section 101.
 3. The term “next of kin,” used with respect to an individual, means the nearest blood relative of that individual.
 4. The term “serious injury or illness,” in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described above under “covered servicemember,” means an injury or illness that was incurred by the member in 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 line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.
- b. An eligible employee may take up to twelve (12) workweeks during a twelve 12-month period because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the eligible employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
 1. The term “covered active duty” means in the case of a member of the regular component of the Armed Forces, duty during deployment of the member of the

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Armed Forces to a foreign country; and in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. Section 101(a)(13)(B).

2. The term “qualifying exigencies” includes short-notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements; counseling; rest and recuperation; post-deployment activities; and any additional activities agreed to by the City and the employee.

2. Duration of Servicemember FMLA Leave

Leave to care for a covered servicemember, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) workweeks in a single twelve (12)-month period.* Such leave may also be taken intermittently or on a reduced leave schedule.

Leave for a qualifying exigency may not exceed twelve (12) workweeks during a twelve 12-month period.

*The “single 12-month period” in which the 26-weeks-of-leave entitlement occurs is measured forward from the date the employee’s first FMLA leave to care for the covered servicemember begins and ends twelve (12) months after that date. If an eligible employee does not take all of his or her 26 workweeks of leave entitlement to care for a covered servicemember during the “single 12-month period,” the remaining part of his or her 26 workweeks of leave entitlement to care for the covered servicemember is forfeited.

3. Notice of Need for Servicemember FMLA Leave

When the need for leave is for planned treatment for a serious injury or illness for a covered servicemember, employees must provide not less than thirty (30) days’ notice for such leave. If thirty (30) days’ notice is not practicable, notice must be given as soon as practicable.

When the need for leave is because of a qualifying exigency, employees must provide notice as soon as practicable.

An employee should complete a Request for Leave of Absence and submit it to the employee’s immediate supervisor or the Department Liaison. An employee asking for Request for Leave of Absence will be given a copy of the City’s FMLA/CFRA leave policy. Please see the procedures below.

For purposes of confirmation of family relationship, the City may require the employee giving notice of the need for leave to provide reasonable documentation of family relationship. This documentation may take the form of a simple statement from the employee, a child’s birth certificate, a court document or other similar documentation as requested by the City.

Leaves of Absence**4.2.1****4. Certification for Servicemember FMLA Leave**

When the need for leave is for the care of a covered servicemember with a serious injury or illness, eligible employees must provide medical certification from a health care provider on a Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave form provided by Human Resources. For foreseeable events, employees must provide the required medical certification before the leave begins. When this is not possible, employees must provide the required medical certification within fifteen (15) calendar days after the City's request for certification. Failure to provide the required certification within fifteen (15) days of the City's request may result in denial of the leave.

When the need for leave is because of a qualifying exigency, an employee must complete a Certification of Qualifying Exigency for Military Leave form provided by Human Resources. Employees must provide the required certification within fifteen (15) calendar days after the City's request for certification. Failure to provide the required certification within fifteen (15) days of the City's request may result in denial of the leave.

5. Use of Paid Leave During Servicemember FMLA Leave

- a. For the care of a covered servicemember with a serious illness or injury:

An employee on FMLA leave to care for a covered servicemember with a serious injury or illness must use all accrued vacation leave at the beginning of any otherwise unpaid FMLA leave. An employee may elect to use executive leave, personal leave, or compensatory time to care for a covered servicemember with a serious injury or illness. An employee may also elect to use accrued sick leave to care for a covered servicemember with a serious injury or illness pursuant to the terms and conditions under the applicable MOA or Benefit & Compensation Summary for Management/Professional Employees.

- b. For leave because of a qualifying exigency:

An employee on FMLA leave because of a qualifying exigency must use all accrued vacation leave at the beginning of any otherwise unpaid FMLA leave. An employee on FMLA leave because of a qualifying exigency may elect to use executive leave, personal leave or compensatory time during any portion of otherwise unpaid FMLA leave because of a qualifying exigency.

6. When Both Spouses Are Employed by the City

The aggregate number of workweeks of leave to which both that husband and wife may be entitled during servicemember FMLA leave may be limited to twenty-six (26) workweeks during the single twelve (12) month period. If a combination of leave is taken by the husband and wife to care of an injured servicemember and for the birth or adoption of a child or to care for parent with a serious health condition, the total leave is still limited to twenty-six (26) weeks.

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Servicemember FMLA runs concurrent with other leave entitlements provided under federal and state laws.

PREGNANCY DISABILITY LEAVE

It is the policy of the City of San Jose ("City") to comply with the provisions of the California Pregnancy Disability Leave Act. Rights and obligations which are not specifically addressed in this policy are incorporated in by reference. Employees may also be entitled to other leave benefits to the extent they are eligible under other City policies, Memorandum of Agreement ("MOA"), or Benefits and Compensation Summary.

AUTHORITIES

Pregnancy Disability Leave Act (California Government Code §12945)

An employee is disabled by pregnancy, childbirth or related medical conditions, the employee is entitled to take an unpaid pregnancy disability leave of up to four months, depending on the employee's period(s) of actual disability. If the employee is eligible for leave under the federal Family and Medical Leave Act ("FMLA"), the employee shall receive the benefits of FMLA concurrently with the leave granted under the Pregnancy Disability Leave Act. At the end of the employee's pregnancy disability leave, a CFRA-eligible employee may request to take CFRA leave of up to 12 workweeks for reason of the birth of her child.

POLICY

1. Eligibility

There is no length of service requirement before an employee affected by pregnancy, childbirth, or related medical conditions, is eligible for pregnancy disability leave ("PDL").

2. Leave of Absence and Transfers

Any employee who is disabled on account of pregnancy, childbirth, or related medical conditions may take an unpaid pregnancy-related disability leave for the period of disability of up to four (4) months.

Moreover, if the employee is affected by pregnancy or a related medical condition, the employee is eligible to transfer to a less strenuous or hazardous position for which the employee is qualified or to less strenuous or hazardous duties, if the transfer is medically advisable and can be reasonably accommodated.

3. Intermittent Leave or Reduced Leave Schedule

Pregnancy-related disability leaves may be taken intermittently, or on a reduced-hours schedule when medically necessary as determined by the employee's health care provider.

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If leave is taken intermittently or on a reduced schedule, the City retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee's leave schedule.

4. Use of Paid Leave During PDL Leave

An employee on PDL leave must use all accrued sick leave at the beginning of any otherwise unpaid PDL leave. Employees will not be required to use any accrued sick leave during the eligibility period for receipt of Long Term Disability Insurance benefits. An employee may elect to use accrued vacation leave during the eligibility period for receipt of Long Term Disability Insurance benefits. An employee on PDL leave may elect to use any accrued vacation leave, executive leave and/or personal leave during any portion of otherwise unpaid PDL leave.

The substitution of paid leave for PDL leave does not extend the total duration of such leave to which an employee is entitled.

Employees on leave accrue employment benefits, such as sick leave, vacation benefits, and retirement service credit, only when paid leave from the City is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

5. Health Benefits and Insurance Premiums

While an employee is on PDL leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee continued to work. The employee is responsible for her portion of health benefits and insurance premiums. If accrued vacation leave, accrued sick leave, personal leave, executive leave and/or compensatory time are used during a PDL leave, the City will make payroll deductions to collect the employee's portion of health benefits and insurance premiums. If the employee is on unpaid leave, the employee must continue to make payments of her share of health benefits and insurance premiums, either in person or by mail. The payment must be received by the first day of each month. If the payment is more than thirty (30) days late, the employee's health and insurance benefits may be dropped for the duration of the leave. The City will provide at least fifteen (15) days' notification prior to the employee's loss of coverage. Please see Procedures below.

If the employee does not return from a PDL leave, the City can recover its share of health benefit premiums paid by the City during unpaid periods of PDL leave under certain circumstances.

6. Seniority

An employee on unpaid PDL leave remains an employee and the leave will not constitute a break in service. An employee who returns from an unpaid PDL leave will return with the same seniority the employee had when the leave commenced. To the extent that any accrued sick leave, accrued vacation leave, executive leave, and/or personal leave are used during a PDL leave, the employee will accrue seniority service credit during the portion of such paid leave.

Leaves of Absence**4.2.1****7. Employee Notice of PDL Leave or Transfer**

Employees should provide not less than thirty (30) days' notice before any PDL leave or transfer is to begin if the need for leave or transfer is foreseeable because of pregnancy. If thirty (30) days' notice is not practicable, notice must be given as soon as practicable.

For PDL leave, an employee should complete a Request for Leave of Absence and submit it to the employee's immediate supervisor or the Department Liaison in the employee's department. An employee asking for Request for Leave of Absence will be given a copy of the City's FMLA/CFRA leave and PDL leave policies. Please see the procedures below.

8. Medical Certification

An employee requesting PDL leave or transfer must provide medical certification from a health care provider.

A completed Medical Certification form, or a doctor's note containing the information requested in the Medical Certification form, must be submitted in a sealed envelope marked CONFIDENTIAL. The address to submit the completed Medical Certification form or equivalent doctor's note is:

The City of San José
Human Resources – Employee Benefits
200 East Santa Clara Street, 2nd Floor Wing
San José, CA 95113-

Medical certifications must be received by Human Resources as follows:

- a. For foreseeable events: An employee must provide the required medical certification before the leave begins.
- b. For non-foreseeable events: An employee must provide the required medical certification within fifteen (15) calendar days after the City's request for certification.

Failure to provide the required medical certification within fifteen (15) days of the City's request may result in denial of the leave.

An employee's request for an extension or early return from a PDL leave must also be supported by updated medical certification.

9. Return to Work

Before an employee will be permitted to return from a PDL leave or transfer, the employee may be requested to provide certification from his or her health care provider that he or she is able to return to work.

If the employee can return to work with limitations, the City will evaluate those limitations and, if possible, will accommodate the employee as required by law.

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Employees returning from a PDL leave are entitled to reinstatement to the same or comparable position consistent with applicable law, Memorandum of Agreement or Benefits and Compensation Summary.

OTHER LEAVES WITHOUT PAY

Leaves of absence without pay allow employees to take time off from their jobs for specific reasons, with the approval of the appointing authority, and return to their jobs at a later date. The City Manager is the Appointing Authority for all City employees, excluding professional employees in the City Attorney's Office, employees of the City Auditor's Office, employees of the Independent Police Auditor's Office, and employees appointed by the Mayor and City Council.

AUTHORITIES

Provisions in applicable Memoranda of Agreement (MOA) regarding leaves without pay (excluding leaves qualifying under the Family and Medical Leave Act, California Family Rights Act, and Pregnancy Disability Leave Act) supersede this general policy.

San Jose Municipal Code, §3.04.1250

Each and every leave...shall specify clearly the date of commencement and the date of termination thereof.

San Jose Municipal Code, §3.04.1260

An initial leave [may be granted]...for a period not to exceed twelve (12) months. Extensions may be granted...not to exceed a total of twelve (12) months. Any leave granted ...may be revoked or canceled at any time by the appointing authority by notice in writing....

San Jose Municipal Code, §3.04.1270

The provisions in a memorandum of understanding [Memorandum of Agreement]...concerning leaves of absence without pay shall supersede...the provisions of this code.

San Jose Municipal Code, §3.04.1280

[An employee returning from leave of absence without pay] is entitled to return to the position [classification] held by him before the...leave; or [if that position has been eliminated] to a position of like status and pay if such position exists... [unless the] employee does not return to his employment on the first working day following expiration of such leave. [If an employee returns] after the first working day and before the 60th working day...the city manager may return said employee to duty upon showing of good cause therefore.

POLICY

1. Granting of Leaves

The appointing authority or designated representative may grant an employee a leave of absence without pay not to exceed twelve (12) months for good and sufficient reason. *Exception:* FMLA/CFRA/PDL and Military Leaves are addressed separately.

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2. Extensions

An extension beyond a twelve (12) month leave of absence without pay may be granted to the extent that such an extension is permitted under the applicable MOA. Any extension must be requested in writing before the end of the approved leave. No extension is permitted for police officers.

3. Documentation of Leave

Any unpaid absence from work that extends beyond one pay period must be requested on a Request for Leave of Absence. The department head must approve both forms. The Director of Human Resources must also approve the Request for Leave of Absence.

If the employee is unavailable to initiate the Request for Leave of Absence, the form must be initiated by the employee's department and forwarded to the Director of Human Resources. *Exception:* Any absence that is due to a job-related illness or injury is excluded from the Request for Leave of Absence process.

4. Beginning and Ending Dates

Each request for a leave of absence without pay must specify the beginning and ending dates of the leave. This period excludes dates for which sick, vacation, compensatory time or other paid leave is used.

5. Cancellation of Leave

The appointing authority may cancel a leave of absence without pay upon thirty (30) days written notice sent by registered mail to the employee.

6. Seniority Credits

An employee shall not receive seniority service credit for time spent on leave without pay.

7. Accrued Vacation and Compensatory Time

All accrued vacation and compensatory hours will be carried over until the employee either returns from an approved leave of absence or separates from City service, unless the employee indicates to the contrary on Request for Leave of Absence.

8. Insurance Premiums

Human Resources will notify the employee if insurance premiums will lapse while on leave without pay, and will determine the premium payment amount(s) due. An employee who wishes to remain insured must pay the full premium(s), including the City's portion, by personal check on a biweekly or monthly basis. The City will not make its contribution to insurance programs during an unpaid leave. Coverage will be canceled if payment is not received from the employee by the date on which premiums would be paid by payroll deduction if the employee were not on unpaid leave.

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9. Reinstatement of Insurance Coverage

Employee benefits, which were in effect prior to a leave of absence without pay, will be reinstated upon return from leave. An employee whose health, dental and other insurances have lapsed during unpaid leave must contact Human Resources after returning from leave to reinstate benefits. The effective date of reinstated coverage will be after required enrollment form(s) are submitted and the appropriate premiums have been paid by payroll deduction, and may vary for each benefit.

10. Step Increases

Unpaid leave will not count toward a step increase. After return from leave, the employee's anniversary date for a step increase will be changed to reflect the leave of absence without pay.

11. Salary Continuation (Long-Term Disability) Insurance

An employee who has salary continuation insurance and will be on leave for more than thirty (30) calendar days for medical reasons will submit their claim to the insurance carrier following the carrier's procedures.

PROCEDURES

Employee	<p>Employee notifies immediate supervisor of the need to take a leave as soon as reasonably possible. Notification may be provided by submitting a Request for Leave of Absence, or, when form submission is not practicable, notification may be given verbally to your supervisor. Request for Leave of Absence is required for any FMLA, CFRA, PDL leave and for any unpaid leaves which exceeds two weeks.</p> <p>Employee is required to code paid leave hours for his/her normal working schedule.</p>
Supervisor	<p>Supervisor provides the Request for Leave of Absence for the employee to complete. If the employee is unavailable, the supervisor will complete the Request for Leave of Absence upon learning of the employee's need for leave.</p> <p>Supervisor provides employee with the City's Leaves of Absence Policy and obtains information as needed to answer employee's questions, if any.</p> <p>Supervisor immediately accepts the employee's completed Request for Leave of Absence and submits this completed form to the Department Liaison.</p>

Leaves of Absence**4.2.1**

Supervisor/Timekeeper	Supervisor notifies timekeeper of time codes to be used and is responsible for accurate tracking of leave time. Timecard reporting codes must accurately reflect the hours and type of leave taken.
Department Liaison	Department Liaison receives Request for Leave of Absence from the Supervisor. The Department Designee obtains leave approval from the Department Head.
Department Head	Department Head or designee reviews, approves and signs the Request for Leave of Absence.
Department Liaison	<p>Department Liaison provides a copy of the Request for Leave form to the employee. For FMLA, CFRA and/or PDL leave requests, the Department Liaison will provide the following:</p> <ol style="list-style-type: none"> 1. An original Preliminary Leave Designation Letter. 2. A copy of Leaves of Absence - Employee/Employer Rights and Responsibilities information brochure. 3. The Medical Certification form for any leave involving a possible serious health condition. 4. FMLA, CFRA and/or PDL pamphlets as applicable.
Department Liaison	<p>Department Liaison submits original Request for Leave form to department director or designee for signature.</p> <p>Department Liaison retains a copy of the approved and signed Request for Leave of Absence and forwards the original, completed form and a copy of the Preliminary Leave Designation Letter to HR/Employee Benefits.</p> <p>If employee is requesting leave for their own serious health condition and is eligible to file a claim with their Long Term Disability (LTD) plan provider, the Department Liaison will provide a claim form to the employee, which includes specific instructions for LTD claim submission.</p>
Employee	<p>Employee is responsible for reading the information that is contained in the leave packet and to respond to City's request for information.</p> <p>Employee is required to submit medical certification (either in a completed Medical Certification form or a doctor's note containing the information requested in the Medical Certification form) to the Human Resources Department's Return to Work Coordinator before the leave begins or within 15 days after City's request for medical certification.</p>

Leaves of Absence**4.2.1**

Employee shall contact supervisor/department immediately regarding any need for an extension of the duration of leave, early return from leave, or to report changes to the original reason for requesting leave.

HR/Employee Benefits

HR/Employee Benefits reviews the Request for Leave of Absence. For leave requests involving a serious health condition, the review is performed upon receipt of the medical certification. HR/Employee Benefits issues a final determination of leave approval/non-approval via the Leave Designation Letter to the employee.

Employee

HR/Employee Benefits will advise employee of the employee's share of cost for benefits continuation while on leave.

Employee shall provide instruction to HR/Employee Benefits staff regarding the continuation of benefits while on unpaid leave.

Employee is responsible for paying the employee's share of premium while on unpaid leave. Failure to submit payment within 30 days of premium due date will result in notification of pending termination of benefits.

The City will provide 15 days' notification prior to the employee's loss of coverage. If no payment is received within 15 days of the pending termination of benefits notice, the employee's coverage will be terminated for failure to pay premiums.

Supervisor/
Liaison

Upon conclusion of leave, supervisor/department Department completes a Return from Leave Verification form and forwards to HR/Employee Benefits.

Supervisor/department shall consult with Human Resources Department's Return to Work Coordinator regarding any return to work issues.

Employee

Employee shall contact HR/Employee Benefits immediately upon return from leave to discuss benefit enrollment options. Failure to contact HR/Employee benefits within the first 30 days may result in the employee's inability to enroll in benefit programs.

Leaves of Absence

4.2.1

For additional information or assistance:

Internet Website: www.sanJoseca.gov/benefits

City's Intranet Website: www.csj.gov

E-mail: benefits@sanJoseca.gov

Phone: Human Resources Main Number: (408) 535-1285

Approved:

 /s/ Jennifer Schembri
Director of Employee Relations

 October 17, 2016
Date

Approved for posting:

 /s/ Jennifer Maguire
Senior Deputy City Manager

 October 17, 2016
Date