

Sick Leave**Section 4.2.6****PURPOSE**

To establish the policy and procedures for the accumulation and use of sick leave for full-time and part-time City employees.

AUTHORITY

Applicable Memoranda of Agreement (MOA) or Benefit & Compensation Summaries for Management/Professional Employees (Compensation Summary).

California Labor Code Sections 230.2 and 246.5

California Government Code Section 12945.8

DEFINITIONS

“Crime” means a crime or public offense as set forth in Section 13951 of the Government Code, and regardless of whether any person is arrested for, prosecuted for, or convicted of, committing the crime.

“Domestic violence” means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

“Family member” means a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as those terms are defined in Section 12945.2, or designated person. For purposes of this paragraph, “designated person” means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for leave pursuant to this section.

“Qualifying act of violence” means any of the following, regardless of whether anyone is arrested for, prosecuted for, or convicted of committing any crime:

- (A) Domestic violence.
- (B) Sexual assault.
- (C) Stalking.
- (D) An act, conduct, or pattern of conduct that includes any of the following:
 - (i) In which an individual causes bodily injury or death to another individual.
 - (ii) In which an individual exhibits, draws, brandishes, or uses a firearm, or other dangerous weapon, with respect to another individual.
 - (iii) In which an individual uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.

“Sexual assault” means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that person’s safety or the safety of others or suffer substantial emotional distress.

“Victim” has the meaning as defined by [Section 12945.8 \(j\)\(8\) of the Government Code](#).

“Victim advocate” means an individual, whether paid or serving as a volunteer, who provides services to victims under the auspices or supervision of an agency or organization that has a documented record

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of providing services to victims, or under the auspices or supervision of a court or a law enforcement or prosecution agency.

“Victim services organization or agency” means an agency or organization that has a documented record of providing services to victims.

POLICY**A. Acceptable Uses of Sick Leave**

Sick leave may be used to cover absences from work for the following reasons:

1. Non-job related illness or injury, including absences of pregnant employees related to pregnancy or childbirth,
2. Routine medical or dental appointments, including diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or employee’s family member,
3. Illness in the immediate family as defined by the applicable Memoranda of Agreement (MOA) or Benefit & Compensation Summary for Management/Professional Employees,
4. Specified circumstances of work-related disability not covered by disability leave provisions, and
5. For a victim of a crime or to assist a family member who was a victim of a crime to take time off work for the following:
 - To obtain or attempt to obtain any relief for the family member, and relief includes but is not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the family member of the victim;
 - To seek, obtain, or assist a family member to seek or obtain, medical attention for or to recover from injuries caused by a qualifying act of violence;
 - To seek, obtain, or assist a family member to seek or obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of a qualifying act of violence;
 - To seek, obtain, or assist a family member to seek or obtain psychological counseling or mental health services related to an experience of a qualifying act of violence; participate in safety planning or take other actions to increase safety from future qualifying acts of violence;
 - To relocate or engage in the process of securing a new residence due to the qualifying act of violence, including, but not limited to, securing temporary or permanent housing or enrolling children in a new school or childcare;
 - To provide care to a family member who is recovering from injuries caused by a qualifying act of violence; seek, obtain, or assist a family member to seek or obtain civil or criminal legal services in relation to the qualifying act of violence;
 - To prepare for, participate in, or attend any civil, administrative, or criminal legal proceeding related to the qualifying act of violence;

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- To seek, obtain, or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence; or
 - To attend judicial proceedings related to that crime, including, but not limited to, any delinquency proceeding, a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding where a right of that person is an issue.
6. To take time off to serve as required by law on an inquest jury or trial jury.

B. Drug or Alcohol-Related Absences

Paid sick leave shall not be allowed for any absence from work occasioned by intoxication, chronic alcoholism, or the use of narcotics not prescribed by a licensed physician. If approved by the City, an employee who is enrolled and participating in a substance abuse treatment program may use sick leave for absences resulting from participation in such program.

C. Authorization

Sick leave is not a benefit in which an employee may use at his/her discretion; therefore, sick leave will be authorized only in cases where the request for sick leave is reported promptly and used for one of the above reasons. An employee may be required to substantiate any request for the use of sick leave.

As a condition of taking time off for an employee who was a victim of a crime or to assist a family member who was a victim of a crime, the employee shall give the City reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

When an unscheduled absence occurs for taking time off for an employee who was a victim of a crime or to assist a family member who was a victim of a crime, the employee, within a reasonable time after the absence, shall provide a certification upon request by the City. Certification shall be sufficient in the form of any of the following:

- A police report indicating that the employee or a family member of the employee was a victim.
- A court order protecting or separating the employee or a family member of the employee from the perpetrator of the qualifying act of violence, or other evidence from a court or prosecuting attorney that the employee or a family member of the employee has appeared in court.
- Documentation from a licensed medical professional, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, victim advocate, licensed health care provider, or counselor that the employee or a family member of the employee was undergoing treatment or seeking or receiving services directly related to the qualifying act of violence.
- Any other form of documentation that reasonably verifies that the qualifying act of violence occurred, including, but not limited to, a written statement signed by the employee, or an individual acting on the employee's behalf, certifying that the absence is for a purpose authorized under this section.

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An employee may take up to 12 weeks for the following reasons:

- If an employee's family member is a victim who is not deceased as a result of a crime, and the employee is not a victim, and the employee takes leave To relocate or engage in the process of securing a new residence due to the qualifying act of violence, including, but not limited to, securing temporary or permanent housing or enrolling children in a new school or childcare, the employer may limit the leave taken for that reason to five days.
- If any employee's family member is a victim who is not deceased as a result of crime, and the employee is not a victim, the employer may limit the total leave taken To seek, obtain, or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence to 10 days.

Leave taken by an employee who was a victim of a crime or to assist a family member who was a victim of a crime shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.) and the Moore-Brown-Roberti Family Rights Act, commonly referred to as the California Family Rights Act (Sections 12945.2 and 19702.3 of the Government Code), if the employee would have been eligible for that leave.

An employee may use vacation, personal leave, paid sick leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for an employee who was a victim of a crime or to assist a family member who was a victim of a crime.

The Department Director, or designee may investigate any request for sick leave, or the facts stated in an employee affidavit, whenever doubt exists as to the validity of a sick leave request. Sick leave may be disallowed if: (1) it is not taken for authorized reasons, and/or (2) the regulations as established by the City Manager are not adhered to by the employee.

Sick Leave Entitlement**A. Sick Leave With Pay**

The amount of sick leave entitlement is based on the following conditions of employment:

1. Each eligible employee earns sick leave at a rate of 0.04616 hour of sick leave for each hour worked exclusive of overtime. Employees represented by the International Association of Fire Fighters, Local 230 who work twenty-four (24) hour shifts earns sick leave at a rate of 0.04688 hour of sick leave for each hour worked exclusive of overtime.
2. Unused, earned sick leave time may be accumulated without limit.
3. Any authorized, paid sick leave shall be deemed to be time worked for the purpose of computing sick leave and vacation earned.
4. Unpaid leave (s) of absence shall not be deemed to be time worked for the purpose of computing sick leave and vacation earned.
5. Payment for accumulated and unused sick leave at the date of a full-time employee's retirement or death shall be made in accordance with the provisions of the applicable MOA or Compensation Summary.

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Please see applicable Memorandum of Agreement (MOA) information on sick leave without pay.

C. Sick Leave: Use in Cases Involving Work Related Injury

1. An employee may use paid or unpaid sick leave to cover an initial waiting period not covered by Workers Compensation Temporary Disability (WCTD). Consult the appropriate MOA or Compensation Summary for detailed information and guidelines. The waiting period generally includes any work time remaining on the date of the injury and the three (3) calendar days immediately following the date of injury.
2. Accrued sick leave may be applicable in cases where the employee must be absent from work during an interim period between the date an examining physician determines the employee's condition to be "permanent and stationary" and the date the employee is so notified. Such accrued sick leave may not be used if the employee is otherwise entitled to Worker's Compensation Temporary Disability for this period of time.

Accrued sick leave not exceeding three (3) working days may be granted in circumstances where an alleged job-related illness or injury is involved, but the employee fails to provide medical verification of such job-related illness or injury.

Sick Leave Request and Reporting

Types of sick leave requests available to employees are:

A. Scheduled Medical or Dental Appointment

When the need for sick leave is known for a scheduled medical or dental appointment, the employee shall request sick leave use and obtain approval of his/her immediate supervisor *prior* to the date sick leave is to be utilized.

Any appointment should be made at a time in which it minimizes the time away from the job.

B. Illness or Injury

When the need for use of sick leave becomes apparent **during off-duty hours**, the employee or someone on behalf of the employee must report such to the employee's immediate supervisor prior to or within one hour after the commencement of the employee's next scheduled work day.

When an employee becomes **ill at work**, the employee must notify his/her immediate supervisor or Department Director or designee and obtain approval for the use of sick leave prior to leaving the job.

In the event that the nature of illness or non-job related injury necessitates **an extended absence**, such as planned hospitalization or surgery, the employee shall submit a request for extended sick leave to the Department Director, or designee, as soon as possible after the need for the extended absence becomes apparent. If an employee does not have enough accrued sick leave available to cover the extended period, the employee should submit a request for an unpaid leave of absence for the remaining time period or request approval to use other paid leave such as vacation.

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C. Leave Taken for a Victim of a Crime or to Assist a Family Member Who Was a Victim of a Crime or to Serve as Required by Law on an Inquest Jury or Trial Jury

When the need for sick leave is foreseeable, the employee shall request sick leave use and obtain approval of his/her immediate supervisor *prior* to the date sick leave is to be utilized.

When the need for use of sick leave is unforeseeable the employee shall provide notice of the need for sick leave as soon as practicable.

Employees may also elect to use available vacation, compensatory time, personal leave, and/or executive leave specifically for the reasons stated in “Acceptable Uses of Sick Leave” related to employees who are a victim of a crime or to assist a family member who was a victim of a crime.

PROCEDURES

Scheduled Medical or Dental Appointment, or Other Eligible Event

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| Employee | 1. Contact immediate supervisor to request use of sick leave. |
| | 2. Inform immediate supervisor of date and time of appointment. |
| Immediate Supervisor | 3. Maintain record to verify with timecard. |
| Employee | 4. Upon return to work, appropriately code timecard to account for use of sick leave. |
| Immediate Supervisor | 5. Verify that sick leave usage has been properly coded. |
| Departmental Timekeeper | 6. Verify that sick leave usage has been properly coded on employee’s timecard. |

Illness, Injury, or Other Eligible Event During Off-Duty Hours

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| Employee (or someone on his/her behalf) | 1. Contact immediate supervisor to request use of sick leave. |
| | 2. Inform immediate supervisor of the estimated date of return to work. |
| Immediate Supervisor | 3. Maintain record to verify with timecard. |
| Employee | 4. Upon return to work, appropriately code timecard to account for use of sick Leave. |
| Immediate Supervisor | 5. Verify that sick leave usage has been properly coded on timecard. |
| Departmental Timekeeper | 6. Verify that sick leave usage has been properly coded. |

