



ADMINISTRATIVE POLICIES AND PROCEDURES

Policy ID: Human Resources
Subject: Non-FMLA Leave of Absence
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Prepared By: Human Resources Department
Approved By: City Manager
Legal Review: Elizabeth Ruhmann

DESCRIPTION: Non-FMLA Leave of Absence

POLICY: The policy of the City of El Paso ("City") is to consider an employee's request for a leave of absence (where the leave does not qualify for protection under the Family Medical Leave Act (FMLA)) in accordance with guidelines set forth below. This policy generally provides up to twelve (12) months of consecutive leave, or a combined period of twenty-four (24) months within the most recent seven (7) years of an employee's employment with the City, unless otherwise required by law, including the Americans with Disabilities Act Amendments (ADAAA). All leaves of absence (except military leave provided under USERRA) are concurrent and count towards the twelve (12) or twenty-four (24) months, as applicable.

PROCEDURES: I. Non-FMLA Leave of Absence

a. Leave for Regular Employees after First Year of Employment

An employee with a serious medical condition as defined under the FMLA who does not meet the 1,250 hour requirement or has exhausted leave available under the FMLA may request a leave of absence for a self-qualifying medical event. Approved time away from work will generally not exceed (12) consecutive months. Intermittent leave under Non-FMLA is not permitted unless such leave has been approved as a reasonable disability related accommodation pursuant to the ADAAA. Requests for disability related accommodations should be made to the City's Human Resources Department.

A request for a medical leave of absence not to exceed twelve (12) consecutive months together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, must be made in writing by the employee on the forms prescribed. The Department Head shall recommend disposition of the request in writing to the Human Resources Director.

b. Leave for Employees within First Year of Employment

A request for a Non-FMLA leave of absence not to exceed (3) months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, must be made in writing by the employee on the forms prescribed. The Department Head shall recommend disposition of the request in writing to the Human Resources Director. Employees taking Non-FMLA leave during their initial Probationary period must still complete their remaining probation upon their return to work.

Intermittent leave under Non-FMLA is not permitted unless such leave has been approved as a reasonable disability related accommodation pursuant to the ADA. Requests for disability related accommodations should be made to the City's Human Resources Department.

- c.* When the leave of absence is necessary because of sudden serious health condition or injury, the request may be made by the Department Head without securing the signature of the employee and forwarded to the Human Resources Director or designee.
- d.* The employee shall submit necessary medical documentation upon request. The request for leave will not be effective until approved by the Human Resources Director or designee. In the case of a leave requested as an exception to length-in-service requirement policy, the request must be accompanied by such proof as the Human Resources Director or designee may require.
- e.* A Non-FMLA leave of absence may not be granted or extended for a combined period of twenty-four (24) months within the most recent seven (7) years of an employee's employment with the City, unless otherwise required by law, including the Americans with Disabilities Act Amendments Act (ADAAA) and military leave provided under the USERRA.

A. Requesting a Non-FMLA Leave

Except as otherwise provided by law, no employee will be granted a leave of absence until the employee has been in the Civil Service for at least one year immediately preceding the date of leave except in case of military service, urgent necessity, as allowed in Section I(b) or in accordance with federal or state law, as determined and approved by the Human Resources Director or designee. In these cases, an application for a leave will be accompanied by such proof as the Human Resources Director may require, along with a recommendation from the Department Head.

To obtain a leave of absence based on an employee's own serious health condition, the employee must provide the

Department Head with a written request stating the reason for the requested medical leave, the amount of time expected to be away from work and such forms as may be required by the Human Resources Director, completed by the employee's health care provider, as directed in section B below. The employee will be required to reapply for a Leave of Absence (LOA) every (30) days and provide the supporting medical documentation from the employee's health care provider on the serious health condition, as well as a fitness for duty certification when the employee seeks to be reinstated. If, for medical reasons, the employee is unable to deliver any documentation required under this paragraph, the employee may have a friend, family member or health care provider deliver them.

To obtain a leave of absence so that an employee may care for a spouse, designated household member, child or parent of either with a serious health condition, the employee must provide his Department Head with the required forms, completed by that individual's health care provider, no later than the fifteenth calendar day of absence. The health care provider should indicate that the employee is needed to care for the individual and estimate the amount of time involved. The employee may be required to provide periodic updates on the relevant individual's condition and on the employee's continued need to care for that person.

To obtain foreseeable leave based on the birth or the placement of a child for adoption or foster care with the employee or for planned medical treatment, an employee must notify the Department Head not less than 30 days before the employee plans to commence leave. If it is not possible to give 30 days' notice, the employee must give as much advance notice as is practicable.

A request for Non-FMLA leave of absence for other than the terms stated in this policy may be made to the City Human Resources Director and may only be granted under certain terms and conditions by the City Human Resources Director and/or the City Manager.

B. Certifications for Non-FMLA Leave

The City will require certification for the employee's serious health condition. The employee must respond to the request for certification within (15) calendar days of the notice of eligibility. Failure to comply with the above mentioned requirements will result in denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including employment termination.

Incomplete Certifications

If an incomplete medical certification is received, the City will provide the employee with the opportunity to either have the health care provider correct the certification or provide a written release for the City to contact the health care provider

directly. The employee will have seven (7) calendar days to resolve any deficiencies in the medical certification. If, after seven (7) calendar days the identified deficiencies have not been resolved, the request for leave will be denied.

C. Benefits and Pay Status While on Non-FMLA Leave

The City requires any employee taking Non-FMLA leave to first utilize accrued but unused sick leave and then vacation leave during the leave of absence provided that it is not used to receive more compensation than the employee would receive were the employee on duty.

Employees on unpaid leave of absence are not entitled to holiday pay for those holidays falling during the leave. Additionally, benefits such as vacation time and sick leave do not accrue during an unpaid leave of absence. A break in seniority will occur when an employee is on an unpaid leave of absence for thirty or more consecutive days.

During the portion of any paid leave of absence in which the employee is using accrued vacation or sick leave, the City will maintain its share of an employee's coverage under any group health or insurance plan on the same conditions as if the employee was not on leave. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium.

During any unpaid leave of absence, an employee must pay the cost of any insurance coverage that the employee has elected to make under the City's benefit program. The employee must make arrangements with the Human Resources Department Insurance & Benefits section to make any such payments. If an employee does not pay the required contributions, coverage may be canceled. However, the employee will be given 15 days' notice before coverage is canceled.

If the employee contributes to a pension plan or life insurance plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay their portion of the premiums. If the employee does not continue these payments, the City may discontinue coverage during the leave.

Note: When a personal leave is granted to care for a family member covered under the sick time policy, sick accruals should be exhausted before any other accrued leave

D. Notice Requirements for Returning from Non-FMLA Leave

Employees are expected to be able to return to work by the end of their approved leave. Prior to returning from leave for a personal health condition, the employee will be required to secure a release from his or her healthcare provider confirming the release to return to work to perform regular duties or set forth any restrictions.

If the employee is released to return to work with restrictions, the City's Human Resources in consultation with the employee's department will determine whether the restrictions can be reasonably accommodated. Medical restrictions are those that prevent the employee from performing his or her regular duties at the end of the approved leave due to a continuing medical condition.

If an employee on leave is released to return to work sooner than the expected return date listed on the Leave Request, the employee must notify their supervisor within two (2) business days of receiving the release.

Unable to Return from Non-FMLA Leave

If the employee is not medically released to return to work at the end of his or her leave and the employee has not been granted any additional leave, employment ends as "unable to return from leave" effective the last day of the approved leave, unless a continuation of leave has been granted as an accommodation under the ADAAA, or for other reasons.

Failure to Return from Non-FMLA Leave

Any employee who fails to return to work as scheduled after leave may be subject to dismissal from employment. Employees, who exceed their leave without extension of their leave approved under appropriate leave provisions, may be subject to termination of employment pursuant to the City's discipline policy.

E. When Leave of Absence shall not be Granted

No leave of absence, with or without pay, will be approved or granted when it appears to the Human Resources Director or designee that it is requested for the purpose of enabling the employment of a temporary employee to the same position; or because of political influence, or for cause contrary to the good of the Service.

Personal leaves are not granted for engaging in employment outside of the City, pursuing an independent business venture or as additional leave after Non-FMLA Medical Leave. Intermittent leave under Personal Leave is not permitted.

F. Notices regarding Designated Household Members

Any employee may designate one person who resides in the employee's household, for whom the provisions in this Rule related to a designated household member shall apply. The employee shall submit the name of such household member to the Human Resources Department. In the event that the household member moves from the employee's household or the employee desires to change the designation of his household member, the employee shall immediately file a notice of termination of designation of household member with the Human Resources Department. The Human

Resources Director shall develop appropriate forms for use by employees under this section. The required Designated Household Member form must be completed and filed with the City's Human Resources Department prior to making the request for Non-FMLA leave. Completion of the form is not retroactive.

II. Coordination with Other Policies

A. Attendance and Non-FMLA Medical/Personal Leave

Absences covered under Non-FMLA Leave will be counted as occurrences of absenteeism under the City's discipline policy. However, employees may be subject to discipline up to and including termination of employment, if, during their leave, they engage in activities inconsistent with the state purpose for the leave. For example, employees may be prohibited from engaging in other employment during leave. Misrepresentations or any act of dishonesty related to a leave of absence under this policy will also be grounds for discipline, up to and including termination of employment.

B. Worker's Compensation and Non-FMLA Leave

Non-FMLA Medical Leave and Worker's Compensation can run concurrently. Non-FMLA Medical Leave requests for work injuries involving Worker's Compensation may follow a different process with respect to the verification or clarification of the medical certification.

Related Policies: FMLA Leave of Absence Policy

APPROVED BY:



Joyce Wilson, City Manager

1/6/14

Date