

FMLA FLOWCHART

FMLA (Family and Medical Leave Act) is a federal law that grants rights to employees and charges employers with responsibility to administer the federal law correctly. Legitimate FMLA absences must not be counted against employees on Efficiency Reports or under Civil Service or departmental disciplinary rules. The City's Interdepartmental Policy & Procedure and Civil Service Rule on FMLA are implemented to assure that all City supervisors administer this law appropriately.

1. DOES THE **EMPLOYEE (OR THE EMPLOYEE'S SPOUSE, CHILD [UNDER AGE 18, OR OVER 18 AND INCAPABLE OF SELF-CARE DUE TO PHYSICAL/MENTAL DISABILITY], OR PARENT) HAVE A "SERIOUS HEALTH CONDITION" AS DEFINED BY FMLA?**

"Serious health condition" under FMLA means:

- a. **inpatient care** in a hospital, hospice, or residential medical care facility, including any period of incapacity (meaning unable to work, attend school, or perform regular daily activities) due to the serious health condition or recovery from it, or any subsequent treatment connected with the inpatient care.
- b. **continuing treatment** by a health care provider, including one or more of these:
 - a period of incapacity** (meaning unable to work, attend school, or perform regular daily activities) of **more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:**
 - (1) treatment two or more times by a health care provider within 30 days of the first day of incapacity (unless extenuating circumstances beyond the employee's control exists); OR
 - (2) **treatment by a healthcare provider on at least one occasion which results in a regimen of continuing treatment** (e.g. a course of prescription medication or therapy for treatment of the serious health condition) **under the supervision of the healthcare provider.**

The requirements in (b) (1) and (2) for treatment by a health care provider means an in-person treatment by a health care provider. The first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity.
- c. **any period of incapacity due to pregnancy and/or for prenatal care visits (for the pregnant employee and her husband – but does not include a non-spouse father of the child).**
- d. **any period of incapacity or treatment for incapacity due to a chronic serious health condition which:**
 - i. **requires periodic visits (at least twice a year) for treatment by a health care provider** (or a nurse under direct supervision of the health care provider);
 - ii. **continues over an extended period of time; and**
 - iii. **may cause episodic – rather than continuous – periods of incapacity** (e.g., asthma, diabetes, epilepsy, multiple sclerosis, etc.).
- e. **a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective** (e.g., Alzheimer's Disease, a severe stroke, or terminal stages of a disease).
- f. **any period of absence to receive multiple treatments** (and recovery from those) by a health care provider or someone operating under his/her orders, **for restorative surgery after an accident or other injury; or a condition that would likely result in a period of incapacity of more than 3 consecutive, full days in the absence of medical treatment** (e.g., cancer [chemotherapy, radiation, etc.], severe arthritis [physical therapy], or kidney disease [dialysis]).

If the answer is "yes" to the question about the employee, spouse, child [under age 18, or over 18 and incapable of self-care due to physical or mental disability], or parent having a serious health condition, then any period of absence due to that condition qualifies and must be designated as FMLA leave (meaning giving the employee the required notices of FMLA leave eligibility and designation, requesting medical certification of the need for FMLA leave (as needed), and double coding "FM" on the payroll with some other leave code).

2. ANY PERIOD OF ABSENCE DUE TO **BIRTH OF A CHILD OF AN EMPLOYEE, OR PLACEMENT OF A CHILD WITH AN EMPLOYEE FOR ADOPTION OR FOSTER CARE QUALIFIES AND MUST BE DESIGNATED** AS FMLA LEAVE (meaning giving the employee the required notices of FMLA leave eligibility and designation and double coding "FM" on the payroll with some other leave code).

FMLA RELATED TO MILITARY DUTY:

3. *EMPLOYEE ENTITLEMENT TO SERVICEMEMBER FMLA*

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

Active Duty Family Leave:

- An employee may take Active Duty Family Leave due to a non-medical activity (a “qualifying exigency”) that is directly related to a covered family member’s (limited to a spouse, son/daughter, or parent of the employee) active duty or call to active duty in the regular Armed Forces, National Guard, or Reserves involving deployment to a foreign country; and/or

Injured Servicemember Family Leave:

- An eligible employee (limited to a spouse, son/daughter, parent, or next of kin of a covered servicemember who is a current member of the Regular Armed Forces, National Guard, or Reserves) may take Servicemember Family Leave to care for a covered family member in the Armed Forces, National Guard, or Reserves who has incurred an injury or illness in the line of duty while on active duty (or because active duty aggravated an existing or preexisting injury or illness), provided that such injury or illness may render the family member medically unfit to perform duties of the member’s office, grade, rank or rating. This includes serious injury or illness of veterans who were members of the Armed Forces, National Guard, or Reserves at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. The servicemember must be receiving medical treatment or oversight by a Department of Defense or Veterans Affairs health care provider or by a Department of Defense TRICARE network or non-network authorized private health care provider.

Duration of Leave

- **When Leave Is Due To A “Qualifying Exigency” (Active Duty Family Leave):**

An eligible employee may take up to 12 workweeks of leave during a calendar year.

NOTE: The word ‘exigency’ means an urgent non-medical activity that is directly related to a covered family member’s (limited to a spouse, son/daughter, or parent of the employee) active duty or call to active duty in the regular Armed Forces, National Guard, or Reserves, involving deployment to a foreign country. For an activity to qualify as an exigency, it must fall within one of seven categories of activities or be mutually agreed upon by the department and the employee. The seven categories are: (1) short-notice deployment; (2) military events and related activities; (3) certain temporary childcare arrangements and school activities (but not ongoing childcare); (4) financial and legal arrangements; (5) counseling by a non-medical counselor (e.g., a member of the clergy); (6) rest and recuperation (leave permitted when the military member is on temporary rest and recuperation leave); and (7) post-deployment activities.

- This is unpaid leave, but as with current FMLA leaves, an employee must substitute appropriate available accrued paid leave (e.g., vacation) for the unpaid leave. Compensatory time may also be substituted at the employee’s request.
- This leave time must be double-coded – refer to Policy & Procedure on FMLA and/or Timesheet Coding and Payroll Processing.

- **When Leave Is To Care for an Injured or Ill Servicemember (Injured Servicemember Family Leave):**

An eligible employee (spouse, son/daughter, parent, or next of kin of a covered servicemember in the Armed Forces, National Guard, or Reserves) may take up to 26 workweeks of leave during a single 12-month period to care for an injured or ill servicemember who is undergoing medical treatment, recuperation, therapy, or is on outpatient status or temporary disability retired list, for a serious injury or illness. When combined with other FMLA-qualifying leave, total FMLA leave shall not exceed 26 weeks in a single 12-month period.

- This is unpaid leave, but as with current FMLA leaves, an employee must substitute appropriate available accrued paid leave (e.g., vacation, family sick leave) for the unpaid leave. Compensatory time may also be substituted at the employee’s request.
- This leave time must also be double-coded – refer to Policy & Procedure on FMLA and/or Timesheet Coding and Payroll Processing.

Refer to the Interdepartmental Policy & Procedure on the Family and Medical Act (on the COR Intranet) for more details and for the appropriate forms to use. Contact Human Resources with any questions about FMLA.