



**SUBJECT: FAMILY AND MEDICAL LEAVE POLICY**

**I. PURPOSE**

This Order:

- A. Adopts the attached City of Chicago Family and Medical Leave Act (“FMLA”) Policy and incorporates it by reference into this General Order.
- B. Provides procedures for eligible Chicago Fire Department (CFD) employees who may need to take a leave of absence for specified immediate family and/or medical reasons.
- C. Becomes effective immediately.

**II. OVERVIEW**

- A. The CFD will provide eligible employees up to twelve (12) weeks of job-protected leave within a twelve (12)-month period for one or more of the following reasons:
  - 1. For the birth and care of the employee’s newborn child within one (1) year of the birth of that child;
  - 2. For placement with the employee of a child for adoption or foster care within one (1) calendar year of the adoption or placement;
  - 3. To care for the employee’s spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
  - 4. To take leave when the employee’s own serious health condition makes the employee unable to perform the essential functions of his or her job, including incapacity due to pregnancy and for prenatal medical care;
  - 5. Any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on covered active duty.
- B. The Chicago Fire Department will provide eligible employees up to twenty-six (26) weeks of Military Caregiver Leave each year to care for a covered service member with a serious injury or illness.

### **III. COLLECTIVE BARGAINING AGREEMENTS**

To the extent that an employee is covered by a collective bargaining agreement with provisions that provide leaves of absence rules and benefits which are different than those described in this policy, the provision of the collective bargaining agreement shall govern.

### **IV. CONTACT INFORMATION**

Employees who have questions regarding this policy should contact the CFD Human Resources Liaison at 312-746-6923.

### **V. RESPONSIBILITIES**

It is the responsibility of all employees of the Chicago Fire Department to have a thorough knowledge of this order and to comply with the policy as mandated by this order.

**BY ORDER OF:**



**José A. Santiago**  
Fire Commissioner

**TO BE READ AT FOUR (4) ROLL CALLS AND POSTED**

**Distribution: A**



**DEPARTMENT OF HUMAN RESOURCES**

**CITY OF CHICAGO**

**CITY OF CHICAGO FAMILY AND MEDICAL LEAVE ACT POLICY**

Effective Date: May 1, 2017

**Policy Statement**

This policy provides procedures for when eligible City of Chicago employees may take a leave of absence for specified immediate family and medical reasons pursuant to the requirements of the Federal Family & Medical Leave Act of 1993 (“FMLA”).

**Overview**

The City of Chicago will provide eligible employees up to 12 weeks of job protected leave in a 12-month period for one or more of the following reasons:

- For the birth and care of the employee’s newborn child within one (1) year of the birth of that child;
- For placement with the employee of a child for adoption or foster care within one (1) calendar year of the adoption or placement;
- To care for the employee’s spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
- To take leave when the employee’s own serious health condition makes the employee unable to perform the essential functions of his or her job, including incapacity due to pregnancy and for prenatal medical care;
- Any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on covered active duty.

The City of Chicago will provide eligible employees up to 26 weeks of Military Caregiver Leave each year to care for a covered servicemember with a serious injury or illness.

FMLA leave may be paid, unpaid, or a combination of paid and unpaid depending on the circumstances as specified in this policy.

## **I. Definition of Terms**

### **A. Spouse**

1. The term “spouse” is defined as a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage.

### **B. Child**

1. The term “child” is defined as a biological, adopted, or foster child, stepchild, legal ward; or child of a person standing *in loco parentis*, who is either under age 18; or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. For purposes of Military Leave as defined under Section VII of this policy, the age of the child is not relevant.

### **C. Parent**

1. The term “parent” is defined as a biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis* to the employee when the employee was a child. This term does not include parents-in-law.

### **D. In Loco Parentis**

1. A person stands *in loco parentis* if that person provides day-to-day care or financial support for a child. Employees with no biological or legal relationship to a child can stand *in loco parentis* to that child and are entitled to FMLA leave.
2. Employees are also entitled to FMLA leave to care for a person who stood *in loco parentis* to that employee when the employee was a child.

### **E. Leave Year**

1. The term “leave year” is defined as the calendar year (January 1<sup>st</sup> through December 31<sup>st</sup>).

### **F. Serious Health Condition**

1. A “serious health condition” is defined as an illness, injury, impairment, or physical or mental condition which involves inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or
2. A serious health condition involving continuing treatment by a health care provider which includes:

- a. Any period of incapacity for more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition; or
- b. Any period of incapacity due to pregnancy, or for prenatal care; or
- c. Any period of incapacity or treatment due to a chronic serious health condition. A “chronic serious health condition” is one which requires periodic visits to a health care provider (or health care professional under the supervision of a health care provider); continues over an extended period of time; and may cause episodic rather than continuing periods of incapacity (asthma, diabetes, epilepsy, etc.); or
- d. Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (Alzheimer’s disease, stroke, a terminal illness, etc.); or
- e. Any absences to receive multiple treatments, including any period of recovery therefrom, by or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (chemotherapy, physical therapy, dialysis etc.).

## **II. Eligibility**

### **A. To be eligible for FMLA leave, an employee must:**

- 1. Be employed by the City for at least twelve 12 months.
  - a. The 12 months do not need to be consecutive, so long as the 12 months occurred sometime in the last seven (7) years; AND
- 2. Have worked at least 1,250 hours during the previous 12-month period.
  - a. Hours worked does not include paid time off, including sick leave, vacation time, or any other paid leave where the employee is not actively working.

### **B. FMLA leave may be taken for one or more of the following reasons:**

- 1. For the birth and care of the employee’s newborn child within one (1) year of the birth of that child;
- 2. For placement with the employee of a child for adoption or foster care within one (1) year of the adoption or placement;
- 3. To care for the employee’s spouse, child, or parent who has a serious health condition;

4. To take leave when the employee's own serious health condition makes the employee unable to perform the essential functions of his or her job;
  5. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty."
  6. To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.
- C.** A City of Chicago employee is entitled to a total of 12 work weeks of unpaid leave in a calendar year for the reasons listed in Section II. B. 1-5 above, unless otherwise stated in this policy. Employees who meet the eligibility requirements stated in Section II. A. above will receive the equivalent of 12 weeks in their FMLA bank for the duration of that leave year. Leave may be taken in increments of less than 12 weeks. Any leave taken for the reasons stated in Section II. B. 1-5 above will be counted towards the 12 weeks of allowed FMLA leave.
- D.** A City of Chicago employee is entitled to a total of 26 work weeks each year of unpaid leave for the reason stated in Section II. B. 6. above. Employees who meet the eligibility requirements stated in Section II. A. above will receive the equivalent of 26 weeks in their FMLA bank starting on the first day of the leave. Leave may be taken in increments of less than 26 weeks. Any leave taken for the reason stated in Section II. B. 6. above will be counted towards the 26 weeks of allowed FMLA leave.

### **III. Responsibilities of City Personnel**

#### **A. Department Heads**

1. Each Department Head must take necessary steps to ensure that this Policy is appropriately followed in their department. This includes but is not limited to designating a Departmental Human Resources Liaison ("HRL"), making efforts to ensure that the HRL fulfills the duties established in this Policy, and ensuring that FMLA procedures are consistently applied in the department.

#### **B. Departmental Human Resource Liaison ("HR Liaison")**

It is the responsibility of the Departmental Human Resource Liaison to:

1. Provide employees with the *Eligibility Notice and Rights & Responsibilities* form concerning their eligibility for FMLA leave and their rights and responsibilities under the FMLA within five (5) business days of the employee requesting the leave.
2. Collect *Medical Certification* forms and, if necessary, forward to department decision-maker for approval.

3. Provide employees with the *Designation Notice* form letting them know whether the requested leave is approved, denied, or if additional information is needed within five (5) business days of receiving the medical certification.
4. Notify the payroll administrator/timekeeper of how time taken under FMLA leave will be coded for each employee. When leave is to be taken intermittently, notification should also include the expected frequency and duration of the leave.
5. Notify the employee's supervisor and others with a legitimate need to know that the employee is on FMLA leave, including the expected frequency and duration of the leave when leave is to be taken intermittently.
6. Ensure that everyone understands and abides by the confidentiality provisions of this Policy.
7. Be a resource for employees and managers about FMLA.
8. Ensure that FMLA procedures are consistently applied in their department.
9. Monitor the use of intermittent FMLA to ensure that it is within the parameters of the applicable medical certification.
10. Utilize the Recertification process as described in IV. F. below when employees on FMLA are outside the parameters of their medical certification or where circumstances indicate that recertification is appropriate.

### **C. Supervisors**

It is the responsibility of all supervisors to:

1. Promptly report to their HR Liaison when an employee has requested time off for an FMLA qualifying reason.
2. Notify their HR Liaison if an employee has requested or taken leave that is outside of the expected frequency and duration of the approved leave request.

### **D. Employees**

It is the responsibility of each employee to:

1. Adhere to the guidelines and practices of this FMLA Policy which includes, but is not limited to, providing proper notice to his or her HR Liaison before FMLA leave is to begin (when practicable) and providing the proper documentation and medical certification as requested.

2. Follow the established call in procedures established by his or her department.

#### **E. DHR Leave Administrator**

It is the responsibility of the DHR Leave Administrator to:

1. Conduct audits of FMLA leaves in each of the operating departments and provide reports to the appropriate department head of the audit findings.
2. Serve as a resource to departments that have questions about this policy or the procedures described herein.

### **IV. Procedures**

#### **A. Requesting Leave**

1. Employees must provide 30 calendar days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or the employee's spouse, child or parent.
  - a. When the leave is foreseeable and the employee fails to provide 30 calendar days advance notice, approval of the leave may be delayed until 30 days after the employee provided the notice.
2. If the need for leave is not foreseeable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, then the employee must give as much notice as is possible under the particular circumstances involved. It is expected that an employee will give notice within two (2) working days of learning of the need for leave, except in extraordinary circumstances.
3. An employee can request FMLA leave by contacting their HR Liaison. The request for leave may be verbal or in writing.
4. An employee does not need to specifically mention FMLA when requesting leave, but must explain why the leave is needed, and when and how much leave the employee anticipates needing to take.

#### **B. Notice of Eligibility**

1. Within five (5) business days after an employee has requested leave time, the HR Liaison shall determine whether or not the employee meets the eligibility requirements as outlined in Section II of this policy and issue a completed *Notice of Eligibility and Rights & Responsibilities* form to the employee.



2. If the employee is eligible for FMLA leave, the employee will be notified if additional information, including a medical certification, is needed in order to determine if the absence qualifies as FMLA leave.
3. If the employee is not eligible for FMLA leave, the HR Liaison will meet with the employee and discuss other leave options available.

### **C. Medical Certification**

1. If the FMLA leave is requested due to a serious health condition of the employee or the employee's spouse, child, or parent, a *Medical Certification* Form must be completed and submitted within 15 calendar days of the request for the leave. An employee's failure to provide a complete and sufficient *Medical Certification* form may result in the request for FMLA leave being denied. The employee is responsible for paying for the cost of a medical certification.
  - a. A *Medical Certification* form is considered "incomplete" if one or more of the ***applicable*** entries on the form have not been completed. A *Medical Certification* form is considered "insufficient" if the information provided is vague, unclear, or non-responsive.
2. If it is not practicable to return the *Medical Certification* Form despite due diligence by the employee, the employee may be granted an extension of time to submit the *Medical Certification* Form. For example, if the employee cannot get an appointment with his or her medical provider until after the 15 calendar days have expired, he or she should contact their Department's Human Resources Liaison, explain the situation, and receive an extension.
3. If an employee fails to return their completed *Medical Certification* Form within the 15 calendar days and does not receive an extension from the Department's Human Resources Liaison before the expiration of the 15 calendar days, the request for FMLA will be denied.
4. If there is reason to doubt the validity of the *Medical Certification* form, the City of Chicago may require an employee to obtain a second *Medical Certification* from a health care provider of its choosing, at the City's own expense. For the second opinion, the City is permitted to designate the health care provider; however, the provider may not be one that regularly contracts with the City. If the first and second opinions differ, the City may require, at its expense, the employee to obtain a *Medical Certification* form from a third health care provider who is approved jointly by the City and the employee. This third opinion shall be final and binding.

5. A *Medical Certification* form is not required for leave to bond with a newborn child or a child placed for adoption or foster care. However, the employee may be required to provide reasonable documentation to confirm the family relationship. Such documentation may take the form of a child's birth certificate, a court document, or a simple statement from the employee.
6. If the *Medical Certification* form provided by the employee is not complete and sufficient to determine whether the FMLA applies to the requested leave, the HR Liaison will outline on the *Designation Notice* form the additional information that is required in order to make the *Medical Certification* form complete and sufficient. The employee will be given no less than seven (7) calendar days to provide this additional information. If the employee fails to provide this additional information within the time provided, the request for leave will be denied.
  - a. If it is not practicable under the particular circumstances despite the employee's good faith efforts, the employee may be granted an extension of time to submit the additional information required to make the *Medical Certification* form complete and sufficient. However, the employee must contact their Department's Human Resources Liaison, explain their situation, and receive an extension. If the employee fails to request an extension and does not submit the additional information within the time provided, the request for leave will be denied.
7. Once the HR Liaison has received a complete and sufficient *Medical Certification* form, no additional information may be requested from the health care provider. However, the HR Liaison or a leave administrator may contact the health care provider to authenticate the *Medical Certification* form by asking the health care provider if the information contained on the certification form was completed or authorized by him or her. Under no circumstances may the employee's direct supervisor contact the employee's health care provider.

#### **D. Designation of Leave**

1. Within five (5) business days of receiving enough information to determine whether the requested leave is FMLA-qualifying, the HR Liaison shall issue a *Designation Notice* form to the employee indicating whether the FMLA absence is approved or denied.
2. If the FMLA leave is approved, the HR Liaison shall provide the designation determination, including, if known, the amount of leave that is designated and counted against the employee's FMLA entitlement. This information shall be included on the *Designation Notice* form.

- a. If the amount of leave is unknown at the time of the designation, e.g., the employee is taking intermittent leave, the employee may periodically request a report of how much leave has been designated and counted against his or her FMLA entitlement, but the employee can make such a request no more often than once in a 30-day period and only if leave was taken in that period.
3. If the FMLA leave is denied, the HR Liaison shall provide that determination to the employee on the *Designation Notice* form and will meet with the employee to discuss other leave options available.

#### **E. Return From Leave**

1. An employee returning from a leave of 12 weeks or less under this policy will be restored to his or her former position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.
2. An employee who fails to return to work at the expiration of his or her leave will be considered to have abandoned his or her position.
3. A fitness-for-duty certificate will be required certifying the employee's ability to return to work from a continuous leave due to the employee's own serious health condition. The fitness-for-duty certificate must address the employee's ability to perform the essential functions of the employee's job. A fitness-for-duty certificate is not required for FMLA leave taken for the birth or adoption of a child.
4. A fitness-for-duty certificate may not be required for each absence taken on an intermittent or reduced leave schedule. However, the employee may be required to obtain a fitness-for-duty certification if there is a reasonable belief that the employee's return to work presents a significant risk of harm to the employee or others. Such certification may be required up to once every 30 days.
5. Reasonable Accommodation
  - a. If an employee attempting to return from FMLA leave, presents a fitness-for-duty certificate that indicates the employee has continuing medical restrictions that impact the employee's ability to perform the essential functions of his or her job, the employee must request a reasonable accommodation from the City's Disability Officer. The employee may not be returned to work until the outcome of their accommodation request is finalized.
  - b. In requesting a reasonable accommodation, the employee should follow the procedures as outlined in the City of Chicago Reasonable Accommodation Policy.

## 6. Other Leave Options

- a. If an employee is unable to return to work at the conclusion of their FMLA leave due to their own serious health condition or the serious health condition of a family member, they may request a medical leave as outlined in the City of Chicago Personnel Rules or the applicable Collective Bargaining Agreement.

## F. Recertification

1. An employee may be required to recertify the need for FMLA leave no more often than every 30 days and only in connection with an absence by the employee. However, recertification may be required in less than 30 days under the following circumstances:
  - a. The employee requests an extension of the leave,
  - b. The circumstances described by the previous certification have changed significantly, or
  - c. The City receives information that causes it to doubt the employee's stated reason for the absence or continuing validity of the existing medical certification.
2. As part of the recertification process, the health care provider may be provided with a record of the employee's absences and asked if the serious health condition and need for leave is consistent with the leave pattern.
3. A complete and sufficient *Medical Certification* Form must be completed and submitted within 15 calendar days of the request for the recertification. An employee's failure to provide a complete and sufficient *Medical Certification* form may result in the request for FMLA leave being denied. The employee is responsible for paying for the cost of any recertification.
  - a. If it is not practicable to return the *Medical Certification* Form despite due diligence by the employee, the employee may be granted an extension of time to submit the *Medical Certification* Form. For example, if the employee cannot get an appointment with their medical provider until after the 15 calendar days have expired, he or she should contact their Department's Human Resources Liaison, explain the situation, and receive an extension.
4. If an employee fails to return his or her completed *Medical Certification* Form within the 15 calendar days, and has not received an extension from his or her Department's Human Resources Liaison before the expiration of the 15 calendar days, the request for FMLA will be denied.

5. Within five (5) business days of receiving a complete and sufficient *Medical Certification* form, the HR Liaison shall issue a *Designation Notice* form to the employee indicating whether the leave is approved or denied.
6. If the HR Liaison determines that the Medical Certification form is not complete and sufficient, the HR Liaison will outline on the *Designation Notice* form the additional information that is required in order to make the *Medical Certification* form complete and sufficient. The employee will be given no less than seven (7) calendar days to provide this information. If the employee fails to provide this additional information within the time provided, the request for leave will be denied.
  - a. If it is not practicable to return the *Medical Certification* Form within seven (7) calendar days despite due diligence by the employee, the employee may be granted an extension of time to submit the *Medical Certification* Form. If the employee fails to request an extension and does not submit the additional information within the time provided, the request for leave will be denied.

#### **G. Notice of Changed Circumstances**

1. If an employee needs to extend the length of the requested FMLA leave, or if the leave as originally requested is no longer necessary, an employee shall, if the changed circumstances are foreseeable, provide notice within two business days of the changed circumstances. If the changed circumstances are not foreseeable, the employee shall provide notice as soon as practicable of the changed circumstances.

#### **H. Investigations**

1. In instances where there is a reasonable belief that an employee has engaged in misconduct by misusing, abusing, and/or engaging in fraudulent activity in requesting, certifying, or taking leave under this policy, such misconduct may be investigated by the department or referred to either the Office of the Inspector General or the Department of Human Resources for investigation.
2. Any employee who is found to have engaged in misusing, abusing, and/or engaging in fraudulent activity in requesting, certifying, or taking leave under this policy may be subject to discipline, up to and including termination.

## **V. Calculating FMLA Leave**

- A.** When an employee takes leave for less than one full workweek, the amount of FMLA leave used is determined as a proportion of the employee's usual and normal workweek schedule.
  - 1. For example, an eligible employee whose actual workweek is always 35 hours per week is entitled to 420 hours (12 workweeks x 35 hours per week) of FMLA leave in a 12-month period. An eligible employee whose actual workweek is always 40 hours per week is entitled to 480 hours (12 workweeks x 40 hours per week) of FMLA leave in a 12-month period.
  - 2. When an employee's schedule varies from week to week so much that is not possible to determine how many hours the employee would have worked during the week had her or she not taken FMLA leave, a weekly average is determined using the hours scheduled for the 12 months prior to the beginning of the leave. This average shall include any hours for which the employee took any type of leave.
- B.** Part-time employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the previous 12-month period will be granted FMLA leave on a pro-rata basis based on their usual and normal workweek schedule.
- C.** When a husband and a wife are both employed by the City and are both eligible for FMLA leave, 12 weeks of FMLA leave may be used by each employee.
- D.** When a holiday falls during a week in which an employee is taking the full week of FMLA leave, the entire week is counted as FMLA leave. However, when a holiday falls during a week when an employee is taking less than a full week of FMLA leave, the holiday is not counted as FMLA leave unless the employee was scheduled and expected to work on the holiday and used FMLA leave for that day.

## **VI. Intermittent Leave**

- A.** When medically necessary, an employee may take FMLA leave on an intermittent basis, or by reducing their normal weekly or daily work schedule to care for a sick spouse, child or parent, or because the employee is seriously ill and unable to work.
- B.** Intermittent leave is available to those employees on FMLA leave due to the birth of their child or a newly placed adopted or foster care child if the department agrees to the arrangement of taking intermittent leave.
- C.** Intermittent FMLA may be taken in 15 minute blocks of time.

- D. All of the same procedures described above in Section IV of this policy apply to employees taking intermittent leave.

## **VII. Military Leave**

### **A. Qualifying Exigency Leave**

1. An eligible employee may take 12 weeks of FMLA leave when the employee's spouse, son, daughter, or parent is on active duty or called to active duty by the United States National Guard or the United States Reserves.
2. This section does not apply to members of the Regular Armed Forces.
3. The employee may use the time off for activities related to the family member's deployment. "Qualifying Exigencies" include:
  - a. Short notice deployment issues;
  - b. Military events and related activities;
  - c. Arranging alternative childcare and related activities arising from the active duty or call to active duty status of a covered military member;
  - d. Making or updating financial and legal arrangements to address a covered military member's absence;
  - e. Attending counseling for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
  - f. Taking up to five (5) days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
  - g. Attending post-deployment activities.
4. Qualifying exigency leave may be taken on an intermittent basis.
5. The same eligibility, notice, and return to work procedures explained above in Section IV of this policy apply to employees on Qualifying Exigency Leave.

### **B. Military Caregiver Leave**

1. An eligible employee may take up to 26 weeks of leave in a 12-month period to care for a spouse, child, parent, or next of kin, who is a current member of the United States Armed Forces, including the National Guard or Reserves, that is undergoing medical treatment,

recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

- a. "Next of Kin" is defined as the nearest blood relative, other than the spouse, parent, or child, in the following order of priority:
    - i. A blood relative who has been designated in writing by the servicemember for purposes of FMLA military caregiver leave;
    - ii. Blood relatives who have been granted legal custody of the servicemember;
    - iii. Siblings;
    - iv. Grandparents;
    - v. Aunts and Uncles;
    - vi. First Cousins.
  - b. "Serious Injury or Illness" of a current servicemember is one that was incurred by the servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.
  - c. A serious injury or illness includes injuries or illnesses that existed before the servicemember's active duty and that were aggravated by service in the line of duty on active duty.
2. Military Caregiver Leave may also be taken to care for 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 the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that treatment.
- a. "Serious Injury or Illness" of a veteran is one that was incurred by the veteran in the line of duty on active duty or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty , and that is either:
    - i. A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of their office, grade, rank, or rating; or



- ii. A physical or mental condition for which the veteran has received Department of Veterans Affairs Service-Related Disability Rating of 50 percent or greater; or
  - iii. A physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service; or
  - iv. An injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
3. An eligible employee's FMLA leave entitlement is limited to a combined total of 26 weeks of FMLA for any qualifying reasons; the employee is entitled to no more than 12 weeks of leave for FMLA-qualifying reasons other than to care for an injured or ill servicemember. For example, an eligible employee may take 14 weeks of FMLA leave to care for an injured servicemember and 12 weeks of FMLA to care for a newborn, for a combined total of 26 weeks of leave.
  4. The same eligibility, notice, and return to work procedures explained above in Section IV of this policy apply to employees on Military Caregiver Leave.

#### **VIII. Use of Benefit Days**

- A. Employees may, but are not required, to use accrued vacation and/or sick days concurrently with any FMLA leave taken pursuant to this policy.
  1. Employees who use accrued vacation and/or sick days concurrently with their FMLA leave will be paid their regular salary and will accrue continuous service time and additional benefit days while on paid status.
  2. Employees on any unpaid leave of more than 30 days, including unpaid FMLA leave, will not accrue continuous service time. Any month in which the employee worked for at least 50% of the time shall be credited for purposes accruing vacation leave based on years of continuous service. Sick leave is granted on the first day of the month to any employee who is in a paid status.
- B. **Paid Parental Leave**
  1. The City offers a specified period of paid leave following the birth or adoption of a child for employees under the City of Chicago Paid Parental Leave Policy. Employees who may receive this period of paid leave include non-union employees and employees of unions that have adopted the Paid Parental Leave Policy. In order to receive the specified

period of paid leave, employees must also be eligible for FMLA as described in this policy.

2. Eligible employees may receive the following paid parental leaves:
  - a. Up to four (4) weeks paid maternity leave to a birth mother to recover from a non-surgical delivery; or
  - b. Up to six (6) weeks paid maternity leave to a birth mother to recover from a surgical delivery; or
  - c. Up to two (2) weeks paid parental leave for the birth of a child or children to a spouse or domestic partner of the birth mother; or
  - d. Up to two (2) weeks paid parental leave for the adoption of a child or children by the employee or the spouse or domestic partner of the employee.
3. Paid Parental Leave and FMLA must run concurrently. In order to receive Paid Parental Leave, an employee must request and be approved for FMLA under this policy.

#### **IX. Healthcare Benefits**

- A. During an approved FMLA leave, an employee's health care benefits will be maintained so long as the employee continues to make his or her employee contribution as appropriate.
  1. An employee who is using sick or vacation time while on FMLA leave will be paid their regular salary and their required contribution toward Health Insurance Premiums will continue to be deducted from the employee's pay.
  2. An employee who is on an unpaid FMLA leave must pay the employee share of the Health Insurance Premiums.
- B. An employee who does not return to work after FMLA leave may be required to reimburse the City for any health care benefit expenses associated with insuring the employee during the FMLA leave.

#### **X. Restoration to Position**

- A. Employees on an approved FMLA leave will be restored to the same position or an equivalent position at the conclusion of the 12 or 26 weeks of leave with the same pay, benefits, and other employment terms and conditions. The position will be the same or one which entails substantially equivalent skill, effort, responsibility and authority.

- B. This policy does not entitle any employee to any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken leave. For example, if during an employee's approved leave, the employee is terminated for reasons unconnected with a legitimate leave, or his/her position is eliminated through a reduction in the workforce, the employee's rights to job restoration as dictated by FMLA regulations and the rights conferred by this policy will cease upon the effective date of the termination or the layoff.
- C. Pursuant to the Salary Resolution, Section B (7), any absence from City service on leave without pay for periods of excess of 30 days shall be deducted in computing continuous service. This provision applies to FMLA leaves unless the terms of a Collective Bargaining Agreement provide otherwise.

## **XI. Outside Employment**

- A. For employees who have received approval to work outside employment, that approval will be suspended during the time that the employee is on FMLA leave due to their own illness or injury.
- B. Employees who have been approved for intermittent FMLA leave will not be allowed to work any approved outside employment on any calendar day when the intermittent leave is taken.

## **XII. Confidentiality and Recordkeeping**

- A. Records and documents relating to medical certifications, recertification, medical histories and/or genetic information of the employee or the employee's family members should be maintained in separate files and treated as confidential medical records. These records should not be placed in the employee's personnel file. The medical information may only be released as follows:
  1. To the employee's supervisors and managers as well as human resources personnel who need to know the information in order to make adjustments to the employee's job duties or responsibilities;
  2. To first aid and/or safety personnel if the employee's medical condition might require emergency treatment; or
  3. To government officials investigating compliance with the FMLA.

## **XIII. Collective Bargaining Agreements**

- A. To the extent that an employee is covered by a collective bargaining agreement with provisions that provide leaves of absence rules and benefits which are different than those

described in this policy, the provision of the collective bargaining agreement shall govern.

**XIV. Statutory Guidelines**

- A. The terms of this policy are to be construed according to the definitions and guidelines of the Family and Medical Leave Act of 1993, 29 C. F. R. Part 825 et. seq.

**XV. Forms**

- A. The Department of Human Resources shall maintain the following forms on its intranet website:
  1. *Notice of Eligibility and Rights and Responsibilities*
  2. *Certification of Health Care Provider for Employee's Serious Health Condition*
  3. *Certification of Health Care Provider for Family Member's Serious Health Condition*
  4. *Certification of Qualifying Exigency for Military Family Leave*
  5. *Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave*
  6. *Certification for Serious Injury or Illness of Veteran for Military Caregiver Leave*
  7. *Designation Notice*