

City of Frankfort

Capital of Kentucky

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MEMORANDUM

To: Department Heads
City Employees

From: Tony Massey 
City Manager

Date: July 7, 2010

Subject: FMLA Policy

FAMILY AND MEDICAL LEAVE (FMLA)

Policy Effective 06/17/2010

Employees of the City of Frankfort are eligible for family and medical leave if they have at least 12 months of service, and have worked at least 1,250 hours within the preceding 12-month period. If eligible, an employee may be able to take up to 12 weeks of paid or unpaid leave during a 12-month period for the following reasons:

- The birth of a child or to care for a child within the first 12 months after birth;
- The placement of a child with the employee for adoption or foster care and to bond with and care for the child (within the first 12 months after placement);
- To care for an immediate family member who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the functions of his/her position; or
- If the employee experiences a qualifying exigency that arises out of the fact that a spouse, parent, or child has been called to or is on active military duty as a member of the National Guard or military reserves.



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Military Caregiver Leave. In addition, an employee who is the spouse, parent, child, or next of kin of a current member of the armed forces (including the regular armed forces) who was injured while on active duty may be eligible for up to 26 weeks of FMLA leave in a 12-month period, including the types of leave listed above.

Notice of Leave. When requesting leave, the employee must:

- Supply sufficient information for the City to be aware that the FMLA may apply to the leave request, as well as information regarding the anticipated timing and duration of leave;
- Provide notice of the need for leave at least 30 days in advance if the condition is foreseeable, as with childbirth or bonding. In situations where the need for leave is not foreseeable, the employee is to provide notice as soon as practicable. The employee must comply with standard procedures for requesting time and calling in to provide notice.
- Cooperate with all requests for information regarding whether absences are FMLA-qualifying, including submitting required forms in a timely manner.

Failure to comply may result in leave being delayed or denied.

All supervisors and department heads should consult with the HR office as soon as possible after an employee is absent for reasons that would typically be covered under FMLA.

Intermittent Leave. When medically necessary, employees may take FMLA leave intermittently or on a reduced schedule basis for their own serious health condition, the serious health condition of a family member, or for military caregiver leave. Employees are required to cooperate with the City to arrange reduced work schedules or intermittent leave so as to minimize disruption of business operations.

Qualifying exigency leave may be taken intermittently without regard to medical necessity or disruption of business operations.

Leave because of the birth or adoption of a child may not be taken intermittently and must be completed within the 12-month period beginning on the date of birth or placement of the child.

Medical and other Certifications. Employees will be required to provide a medical certification if the leave request is: 1) for the employee's own serious health condition, 2) to care for a family member's serious health condition, or 3) military caregiver leave. Failure to provide the requested certification in a timely manner may result in denial of the leave until it is provided. If an employee

refuses to provide a certification, his/her leave request may be denied and the employee may be disciplined.

The City, at its expense, may require a medical examination by a health care provider of its own choosing if it has a reasonable question regarding the medical certification provided by the employee. In lieu of a second opinion, the City may contact the health care provider directly to clarify or authenticate a medical certification, including certifications for military caregiver leave. Pursuant to the provisions of the FMLA, second opinions will not be required for military caregiver leave.

Separate certification may also be required regarding the nature of the family member's military service and/or the existence of a qualifying exigency.

Fitness for Duty Certifications. Because the City wishes to ensure the well-being of all employees, any employee returning from FMLA leave for his/her own serious health condition will need to provide a Fitness for Duty (FFD) certification signed by his/her health care provider. An employee who fails to provide an FFD certification will be prohibited from returning to work until it is provided. An employee who fails to provide an FFD certification may be disciplined or terminated.

FFD certifications may be required when an employee returns from intermittent FMLA leave if serious concerns exist regarding the employee's ability to resume his/her duties safely.

Maintenance of Benefits. The City will maintain health care benefits for the employee while on FMLA leave, but the employee is responsible for paying the normal monthly contribution. If the employee elects not to return to work at the end of the leave period, the employee will be required to reimburse the City for the cost of premiums paid for maintaining coverage during the leave period. All other benefits cease to accrue during the unpaid portion of the leave.

Concurrent Leave. Employees must use any accumulated sick leave, vacation leave, holiday leave, or compensatory (comp) leave to the extent available during FMLA leave unless such leave is covered under workers' compensation, in which case the employee may use accumulated leave time only for the purpose of satisfying any waiting period, or to the extent needed to supplement (approximately 1/3 scheduled time) Total Temporary Disability (TTD) payments to achieve regular earnings. Absences in excess of these accumulated days will be treated as FMLA leave without pay. The City reserves the right to determine the type of paid accrued leave the employee will be granted. For example, if leave is taken for bonding purposes after the birth of a child, the presumption is that Sick Leave would be appropriate for any leave taken within 14 calendar days of the birth of the child, and any leave beyond that period the type of leave appropriate would be Vacation, Holiday or Compensatory. If the leave beyond

those first 14 days after the birth are for medical reasons the employee shall submit appropriate medical documentation. If the City determines medical reasons exist then use of Sick Leave may be authorized. In the case of an adoption, the employee may only utilize sick leave during the FMLA to the extent that acceptable medical evidence is provided that documents the leave is related to medical issues.

An employee on FMLA leave may choose to retain up to one (1) week of accrued Vacation Leave and take unpaid FMLA leave instead of using that Vacation Leave.

Married Couples Who Work for the City. If an employee and his/her spouse both work for the City, they are both eligible for leave. The employee and employee spouse may be limited to a combined total of 12 weeks of FMLA leave in a 12-month period if the leave is taken for:

- The birth, adoption, or foster placement of a child;
- To care for and bond with such child who does not suffer from a serious health condition;
- To care for a parent with a serious health condition; or
- A combination of the above.

For military caregiver leave, the employee and employee spouse may be limited to a combined total of 26 weeks of leave in a 12-month period, including the types of leave listed above in this paragraph.

Absenteeism. FMLA leave may be counted as an absence under the City's attendance policy. However, if the employee has provided appropriate notice and medical documentation then the absence would be considered "authorized".

Secondary Employment. Without the prior approval of the HR Director and Department Head, employees are prohibited from working for another employer during any period when the employee is on Sick or FMLA leave from the City. This includes work for a secondary employer that falls between scheduled shifts at the City. If any employee is self-employed, hours worked in that capacity are subject to this provision of the policy.

Return from Leave. Upon return from leave, the employee will be restored to his/her original or an equivalent position. An employee who fails to return at the end of FMLA leave will in most cases be considered to have voluntarily resigned his/her position with the City. Employees who do not return to work at the end of their leave will be terminated unless they are entitled to additional leave as a reasonable accommodation under the Americans with Disabilities Act.

State and Local Laws. When applicable state or local laws offer more protection or benefits, the protection or benefits provided by those laws will apply.