

## CITY OF WACO

### FAMILY AND MEDICAL LEAVE ACT

Policies and Procedures

AVL-6

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Revised 04/25/05

#### A. Statement of Purpose

City of Waco employees are covered under the Family and Medical Leave Act (FMLA) of 1993. This policy will inform employees concerning their rights and duties and the City's obligations under the FMLA. For those employees covered by collective bargaining agreements, in no event shall those agreements diminish the rights established for employees by the FMLA.

#### B. General Policy

1. By law, eligible employees are entitled to a total of twelve (12) work weeks or 480 hours of unpaid leave during any rolling twelve (12) month period. Local policy will govern leave hours for Fire Suppression personnel. FMLA leave may be used for the following:
  - a. the birth of a child or to care for the newborn child;
  - b. the placement of a child with the employee for adoption or foster care;
  - c. to care for a child, spouse or parent with a serious health condition, as defined by applicable law; or
  - d. a serious health condition of the employee, as defined by applicable law.
2. A husband and wife, both employed by the city and who are eligible for FMLA leave, are allowed a combined total of 12 weeks of leave during any twelve month period if the leave is taken:
  - a. for the birth of the employee's child or to care for the child after birth; or
  - b. for placement of a child with the employee for adoption or foster care, or to care for the child after placement.
3. To be eligible for FMLA leave, an employee must:
  - a. have at least one year of employment with the City; which need not be consecutive months; and
  - b. have worked at least 1,250 hours during the twelve months immediately prior to the requested leave.
4. When taking FMLA leave, the employee must use any accrued sick, vacation, personal, and holiday leave. The option of which type of accrued leave to use while

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on FMLA will be at the employee's discretion, subject to city policy. The employee may also use, but cannot be required to use, compensatory time.

5. FMLA leave is required to be taken by an employee for the following:
  - a. the birth of a child or to care for the newborn child;
  - b. the placement of a child with the employee for adoption or foster care;
  - c. to care for a child, spouse or parent with a serious health condition, as defined by applicable law; or
  - d. a serious health condition of the employee, as defined by applicable law.
6. If an employee is on workers' compensation leave due to a job-related injury, such leave will run simultaneously with an eligible employee's FMLA leave, if any.

#### **C. Employee health insurance benefit**

1. If an employee is not receiving compensation from a leave bank while taking FMLA leave, the City will continue to pay the employee's portion of the health insurance premium, but the City will not be responsible for dependent health coverage during this period.
2. The employee may make arrangements with the City to pay the City for dependent health insurance coverage, but such insurance will cease if a required premium payment becomes more than 30 days late but only after the City has given 15 days written notice to the employee of the City's intent to let the coverage lapse for non-payment.
3. If the employee does not return to work with the City from FMLA leave, any premium contributions paid by the City may be recovered according to law.
4. Sick, holiday, personal, and vacation leave time will continue to accrue while an employee is in any paid leave status. Such leave will not continue to accrue once the employee goes on unpaid leave status.

#### **D. Intermittent Leave**

1. FMLA leave taken because of the serious health condition of either the employee or a covered family member may be taken on an intermittent basis as allowed and governed by applicable law.

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2. If an exempt employee takes intermittent FMLA leave, the employee will only be paid for the hours actually worked, and the hours not worked will be unpaid unless the employee has accrued paid leave.

**E. Employee Absence**

1. Supervisors are responsible for notifying Employee Health Services if any of their employees are off work for more than three work days without requesting FMLA leave. If necessary, an EHS nurse will contact the employee in order to determine whether such time off needs to be designated as FMLA leave.
2. Supervisors of fire suppression employees are responsible for notification under this provision if any of their fire suppression employees are off work for more than one 24-hour work shift.

**F. Certification; Recertification**

1. Employee Health Services will provide the employee with a certification form that must be completed by the employee's health care provider in order to determine whether the employee's medical condition qualifies the employee for FMLA leave. The employee is required to return the completed certification to Employee Health Services within 15 calendar days after the City notifies the employee of the need for such certification. The employee may also be required to provide to Employee Health Services a re-certification every 30 days.
2. The employee must provide Employee Health Services with a medical certification of fitness for duty prior to returning to work when the leave is taken due to the employee's serious health condition.

**G. Provisions of FMLA Prevail**

In the event of a conflict between this policy and the provisions of the FMLA, the provisions of the FMLA shall prevail. This policy does not create any new leave benefits (paid or unpaid) except as may be required to comply with the FMLA and is intended solely to ensure compliance with the FMLA.



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Larry D. Groth, P.E., City Manager  
April 25, 2005