

Department owner/sponsor:
Human Resources/ Risk
Management

Revised: May 24, 2017
Effective: April 19, 2017
Supersedes: PMP 120

Policy Title: Family and Medical Leave

Policy Statement: Family and medical leave allows eligible employees to balance their work and family life by taking job-protected leave for specified family and medical reasons.

Purpose: To provide eligible employees job-protected time away from work for their own serious illness, the serious illness of an eligible family member, for pregnancy and/or birth of child or placement of child in the home, or for specific military leave.

Background: In accordance with federal and state law, the City of Tacoma provides to eligible employees job-protected leave pursuant to the provisions of the Family and Medical Leave Act (FMLA) and the Washington Family Leave Act (WFLA).

In compliance with the FMLA, WFLA, and the National Defense Authorization Act (NDAA), eligible City employees may take up to 12 weeks of unpaid, job-protected leave, or up to 26 weeks of unpaid military caregiver leave, in a single 12-month period, for a qualifying reason such as:

- a. The birth of a child of the employee and in order to care for that child;
- b. The placement of a child with the employee for adoption or foster care;
- c. To care for a qualified family member (a spouse, domestic partner registered with Washington State or on file with the City as of December 31, 2016, child, or parent, and, under WFLA only, a state registered domestic partner) of the employee who has a serious health condition;
- d. A serious health condition that makes the employee unable to perform the functions of his/her job, including circumstances in which a worker's compensation illness or injury meets this definition; or
- e. A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty in the Armed Forces (or has been notified of an impending call or order to active duty in support of a contingency operation).

Eligible City employees may also take up to 26 weeks of unpaid, job protected leave to care for a service member with a serious injury or illness incurred in the line of duty on active duty if the employee is the spouse, son, daughter, parent or next of kin of the service member. The 26-week leave shall only be available during a single 12-month period during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

1. Eligibility

To be eligible for FMLA or WFLA leave, the employee must meet **all** of the following conditions:

- a. The employee must have worked for the City at least 12 months, or 52 weeks. The 12 months, or 52 weeks, need not have been consecutive, but within the past 7 years.

- b. The employee must have worked for the City for at least 1,250 hours during the 12-month period immediately preceding the date the leave is scheduled or determined to begin. This requirement does not include paid or unpaid time off.
- c. Exempt employees who have worked 12 months or 52 weeks are presumed to have worked 1,250 hours, unless they are on a formalized reduced work schedule.

2. Method of Calculating FMLA Leave

The cumulative time absent from work using any combination of paid and unpaid leave granted under the FMLA may not exceed 12 weeks in a 12-month calendar period, unless one of the following exceptions applies:

- a. Qualified leave to care for a service member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces. The eligible employee would then be allowed to use any combination of paid and unpaid leave not to exceed 26 weeks during a single 12-month period. The 12-month period for caring for a service member begins when the employee first requests the leave to care for the service member;
- b. Qualified WFLA leave for pregnancy-related disability; or
- c. Qualified WFLA leave for state registered domestic partner care.

The 12-month period in which the 12 weeks of leave entitlement occurs is calculated on a “calendar” year basis, beginning each January 1st.

3. Methods of Taking Leave

- a. Intermittent Leave or reduced schedule: An employee requesting FMLA or WFLA leave on an intermittent or reduced schedule must provide medical certification indicating that such an accommodation is medically necessary. If an employee needs intermittent leave or leave on a reduced schedule that is foreseeable based on planned medical treatment for the employee, a family member, or a covered service member, the City may consider placing the employee in an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee’s regular position.
- b. Leave taken for birth, adoption or foster care placement: This leave must be completed within 12 months of childbirth or the placement of the adopted or foster child. Both parents who work for the City are entitled to each take 12 weeks of available FMLA leave for the care of their newborn, or for placement of an adopted or foster child. The City may require the parents to stagger their use of leave, if granting leave to both simultaneously will unduly disrupt City operations. The City may agree and permit but is not required to approve intermittent or reduced leave following the birth, adoption or foster care placement of a child.
- c. Leave taken for care of a child with a serious health condition: Both parents who work for the City are entitled to each take 12 weeks of FMLA leave if needed to care for their child with a serious health condition. The City may grant FMLA leave to only one employee at a time if granting leave to both simultaneously will unduly disrupt City operations, except when caring for a child with a serious health condition.
- d. Leave taken for a qualifying exigency: The FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month calendar year for any qualifying exigency arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The City may require that a request for exigency leave be supported by written orders for active duty. The employee shall provide, in a timely manner, a copy of such military orders to the employer.

Qualifying exigency leave may be for attending to issues that arise due to: short-notice deployment; military events and related activities; childcare and school activities; financial and legal arrangements (to address a military member’s absence while on covered active duty);

counseling; rest and recuperation; post deployment activities; and additional activities which are agreed to by the City and the employee.

- e. Leave taken to care for an injured or ill service member: An employee requesting leave to care for an injured or ill service member must provide a medical certification issued by the health care provider of the service member being cared for. An eligible employee may take up to 26 weeks of leave during a single 12-month period to care for a member of the Armed Forces, including a member of the National Guard Reserves, who 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. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month calendar year.

4. **Pay Status During Leave**

- a. FMLA leave shall run **concurrently** with all leave types, except certain WFLA leave. See Paragraph 6 below.
- b. When taking FMLA leave for his/her own serious health condition, an employee must exhaust **all** accumulated sick leave prior to going on unpaid leave. The use of paid sick leave must meet the criteria for the use of such leave as established by City policy. Other applicable leave accruals can be used to allow the employee to remain in a paid status.
- c. When taking FMLA leave for any medically qualifying reason other than the employee's own serious health condition, an employee may use accumulated sick leave prior to going on an unpaid leave status, provided the use of such leave is consistent with the City's policy for use of sick leave. Other applicable leave accruals can be used to allow the employee to remain in a paid status.

5. **Benefits While on Leave**

- a. When an employee is on authorized FMLA leave, the City will continue the employee's health benefits during the authorized FMLA leave period at the same level and under the same conditions as if the employee had continued to work.
- b. If an employee chooses not to return to work for reasons other than a continued serious health condition, the City may require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period. If the employee pays a portion of the health care premium, it is the employee's responsibility to continue to make this payment. If the payment is more than 30 days late, the employee's health coverage may be discontinued for the duration of the leave period, or the City will recover any payments made on behalf of the employee at the end of the leave period.
- c. If an employee contributes to a life insurance or disability policy, the City will continue to make payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee is responsible for paying the employee share of the premiums for all health and wellness benefits. If the employee does not continue these payments, the coverage may be discontinued for the duration of the leave period, or the City will recover any payments made on behalf of the employee at the end of the leave period.

6. **Additional Leave Under the Washington State Family Leave Act (WFLA)**

The WFLA provides additional leave (up to 12 weeks) in certain circumstances, set forth below.

- a. Under the WFLA, an eligible employee who experiences temporary disability associated with pregnancy or childbirth as certified by a recognized healthcare provider, may qualify for WFLA leave (up to 12 weeks), in addition to the 12 weeks of leave allowed under the FMLA.

- b. An eligible employee may qualify for WFLA leave (up to 12 weeks) to care for a Washington State registered domestic partner who has a serious medical condition. This leave does not run concurrently with FMLA leave.
- c. An eligible employee who uses FMLA for a qualifying exigency related to a military deployment or as a military caregiver still may qualify for 12 weeks of leave under the WFLA.


WFLA leave provides for benefits maintenance in the same manner as the FMLA and the same pay status applies as the FMLA. Contact Risk Management at (253) 591-5452 for additional information.

7. Rights and Responsibilities

Any employee who fraudulently obtains FMLA or WFLA leave from the City is not entitled to job restoration or maintenance of health benefits under the FMLA or WFLA; such conduct may lead to disciplinary action up to and including termination.

8. Definitions and Regulation

Family and medical leave is offered according to applicable City ordinances, and state and federal law, which is periodically amended. This Policy may not reflect amendments enacted after this Policy revision.

Applies to:	All City of Tacoma Employees
Reference:	For more information on the FMLA, see: http://www.dol.gov/esa/whd/fmla/ For FMLA definitions, see: http://www.dol.gov/DOL/allcfr/ESA/Title_29/Part_825/29CFR825.800.htm For more information on the FMLA Military Family Leave entitlements, see: http://www.dol.gov/whd/regs/compliance/whdfs28a.htm For more information on the WFLA, see: http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeaveFAQs.pdf For more information on Washington State Registered Domestic Partnership, see: http://apps.leg.wa.gov/RCW/default.aspx?cite=26.60
Contact Info:	Human Resources Risk Management Office
Policy History:	Policy was effective April 19, 2017, that replaced Personnel Management Policy (PMP) 120.
Approval:	 Gary Buchanan, Interim Human Resources Director
Revised:	May 24, 2017