



Federal Medical Leave Act

The Family and Medical Leave Act (FMLA) provides unpaid, job-protected leave when you are unable to work because of your own serious health condition, birth of child, placement of adoption or foster care of child and to bond with that child, or because you need to care for your parent, spouse, or child with a serious health condition. Leave may be taken all at once, or may be taken intermittently as the medical condition requires.

It is essential for all supervisors, in addition to the HR staff, to understand how to comply with FMLA and with the City's own FMLA policy.

FMLA is a federal law we are required to follow and we also have our sick leave usage policy to follow. Adding both of those together can get complicated and confusing.

What Is FMLA?

- FMLA is the federal law that requires employers to grant leave for family and medical circumstances and to reinstate the employee in the same or an equivalent position upon conclusion of the leave and continue health benefits at the same level as prior to the start of FMLA leave.

An employee is eligible for FMLA leave when he/she:

- Has been employed by us for at least 12 months *and*
- Has worked at least 1,250 hours during the 12 months preceding start of FMLA leave *and*
- Is employed at a worksite where 50 or more employees work within 75 miles of that worksite.

The six FMLA circumstances are:

1. Birth of a son or daughter and to care for the newborn child.
2. Placement with the employee of a son or daughter for adoption or foster care.
3. Care of a spouse, son, daughter or parent with a serious health condition.
4. A serious health condition of the employee that makes him/her unable to work.
5. A qualifying exigency for families of members of the Regular Armed Forces, National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation in a foreign country.
6. Care of a spouse, son, daughter, parent or next-of-kin covered service member with a serious illness or injury incurred in the line of duty on active duty.

Note: For circumstances 1-5 above the employee may use up to 12 weeks of FMLA leave in a 12-month period. For circumstance 6 above, the employee may use up to 26 weeks in a single 12-month period.

Most common serious health conditions that qualify for FMLA leave are:

1. Conditions requiring an overnight stay in a hospital or other medical care facility;
2. Conditions that incapacitate you or your family member for more than three consecutive days and require ongoing medical treatment.
3. Chronic conditions that cause occasional periods when you or your family member are incapacitated and require treatment by a health care provider at least twice a year; and
4. Pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

- FMLA leave is unpaid leave.
- The law allows employers to require employees to use any paid leave that they may have as part of their FMLA leave. FMLA leave at the City of Burlington will run concurrently with paid leave (sick, vacation, personal leave and comp time).
- FMLA Use of Paid Leave (from Employee Handbook p. 34)

The City will require an employee to use paid leave as part of his/her FMLA leave as follows:

1. The employee must use any accrued, but unused, sick leave or dependent sick leave, vacation, and personal days, for any portion of the twelve-week leave for birth, adoption, foster placement or to care for a child, spouse, or parent with a serious health condition. However, this section shall not allow any person to take paid sick leave if that person is not otherwise qualified for sick leave under the City's sick leave policy. For the birth of a child the mother is allowed to use paid sick leave and the spouse is allowed to use paid sick leave while the child is in the hospital. After the hospital stay a serious health condition must be documented by a doctor to continue to use paid sick leave during the FMLA period for the spouse. If you do not qualify for sick leave other leave such as vacation and personal days must be used for the twelve-week FMLA period.

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2. The employee must use any accrued, but unused, sick leave, vacation, and personal days for any portion of the twelve-week leave to care for his/her own serious health condition.

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When an employee has used all required paid leave for any portion of an FMLA leave, the balance of the leave will be without pay.

- Sick Leave Policy (from Employee Handbook p. 26)

The benefit is designed to encourage employees to properly care for themselves or their immediate family members (spouse, children, stepchildren, ward, parent or stepparent) where a medical professional deems the presence of the employee to be necessary during periods of sickness or injury, which are not a direct result of their employment. Sick leave may only be used for genuine illnesses or injuries and is closely monitored by the City.

- FMLA allows employers to require employees to submit certification of the need for FMLA leave. Our policy requires the types of certifications listed below. Human Resources provides the appropriate form to employees who may have a FMLA circumstance and handles all follow-up on medical certifications. Employee request for FMLA form is located on the Intranet Under the Family Medical Leave Act (FMLA) section.

- Certification may be required for the:
 - Employee's serious health condition.
 - Family member's serious health condition.
 - Qualifying exigency for military family leave.
 - Serious Injury or illness of covered servicemember for military family leave.
- Employees requesting FMLA leave must provide verbal or written notice of the need to the HR manager. Within five business days after the employee has provided this notice, the HR manager will provide the employee with notice of eligibility and rights.
- When the need for leave is foreseeable, the employee must provide at least 30 days notice. When the employee becomes aware of the need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or next business day.

- When the need is not foreseeable, the employee must comply with our policy for requesting leave, absent unusual circumstances.
- Within five business days after the employee has submitted appropriate certification, the HR manager will complete and provide the employee with a written response to the employee regarding the designation of FMLA leave.

Questions? Comments?