

*City of St. Louis Department of Personnel Administrative
Regulation NO. 133*

FAMILY/MEDICAL LEAVE

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I. INTRODUCTION:

On August 5, 1993, the federal "Family and Medical Leave Act of 1993" went into effect for the purpose of mandating non-paid leave of up to twelve weeks during a defined twelve-month period with the following provisions: an eligible employee's job and health insurance benefits are protected during leave taken for the birth or placement of a child, to care for an immediate family member with a serious health condition, or when the employee is unable to work because of a serious health condition. In some cases, an employee may be granted intermittent leave or leave on a reduced work schedule when short periods of recurring absence are medically necessary. In accordance with this law, the City of St. Louis will continue to pay an eligible employee's health insurance premiums, if any, during the leave period and, once the leave is concluded, reinstate the employee to the same or an equivalent job.

The National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, amended the FMLA to allow eligible employees to take up to twenty-six (26) weeks of leave to care for a servicemember with a service-related injury or illness. It also provided for up to twelve (12) weeks of FMLA to attend to a "qualifying exigency" arising out of the active duty or call to active duty status of a qualifying family member in the National Guard or Reserves. The National Defense Authorization Act of 2010, signed on October 28, 2009, extended Exigency Leave to regular military service families.

II. PURPOSE:

The purpose of this administrative regulation is to define employee eligibility, qualifying conditions for which Family/Medical leave (FML) should be granted, and the procedures for requesting and granting such leave.

III. SCOPE:

Family and Medical Leave (FML), without pay, is available to any employee who has been employed by the City of St. Louis for a minimum of twelve months (can be non-consecutive within a seven (7) year period or longer if the break is occasioned by the fulfillment of National Guard or Reserve military obligation), and who has worked at least 1,250 hours within the twelve-month period immediately preceding the beginning of the requested FML. Any time spent fulfilling National Guard or Reserve military obligation or serving in the regular armed forces during the year preceding the requested FML will be counted toward the 1,250 hours worked.

Eligibility may include some part-time and per performance employees. The provisions of this administrative regulation apply to all employees eligible for Family/Medical Leave, without regard to gender or any other legally prohibited classification. Rights granted under the Family and Medical Leave Act cannot be waived by the employee or the City of St. Louis.

Employees may elect to use sick leave or medical leave to run concurrently with the FML, if the reason for leave qualifies under the provisions of administrative regulations on Sick Leave or Medical Leave. In those instances when paid sick leave or medical leave is not appropriate or is unavailable, employees may elect to use accrued vacation time or compensatory time to run concurrently with FML. All forms of paid leave used during FML will be credited against the FML entitlement.

IV. DEFINITIONS:

1. Conditional Approval of FML: Approval within five (5) working days of a request for FML submitted by an eligible employee on the condition that specified documentation (completed Certification of Physician or Practitioner, birth certificate, etc.) is provided by a certain date.
2. Eligible Employee: A current employee who has been employed by the City of St. Louis for a minimum of twelve months (accrued within the seven (7) years just prior to the requested leave or non-consecutive if interrupted by military service) and who has worked at least 1,250 hours in the twelve (12) months immediately preceding the date leave is to begin.
3. Family Members: This family/medical leave regulation provides leave benefits covering "immediate family members" as defined below:

A. Child: a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age, or 18 years of age or older and incapable of self-care because of a mental or physical disability, as defined by the Americans with Disabilities Act.

B. Parent: a biological or adoptive parent, stepparent, legal guardian, foster parent, or an individual who stood in loco parentis acting in the place of a parent, when the employee was a child or an employee who is currently acting in that status for a minor child. This does not require a legal relationship.

C. Spouse: a husband or wife as defined or recognized under Missouri State law for purposes of marriage or a domestic partner as defined by the Benefits Section of the Department of Personnel (affidavit for health care insurance).

Family members specifically included for military caregiver leave (Parent and Spouse remain unchanged) are defined below:

A. Child: a biological, adopted or foster child, a stepchild, legal ward or a child for whom the covered servicemember stood in loco parentis, and who is of any age.

B. Next of Kin: Means the nearest blood relative (other than the already listed spouse, parent, son or daughter), i.e., anyone given legal custody of the servicemember including siblings; grandparents; aunts and uncles; first cousins, or anyone specifically designated by the servicemember as next of kin.

4. Health Care Provider: A doctor of medicine or osteopathy authorized to practice medicine or surgery by the state in which he/she practices; podiatrists; dentists; clinical psychologists; optometrists; and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray) authorized to practice in the state and performing within the State-defined scope of their practice; nurse practitioners and nurse-midwives, clinical social workers and physician's assistants authorized to practice under state law

and performing within the state-defined scope of their practice; and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; a health care provider that is accepted by the employer's group health care plan benefits manager; a health care provider that is authorized to practice within the state without the supervision of another health care provider; a health care provider that is licensed by, and practices in, another country.

5. Incapable of self-care: Individual (qualifying relative) requires active assistance or supervision in several of the "activities of daily living," such as grooming, bathing, dressing, eating, cooking, cleaning, taking medication, transportation, paying bills, etc.

6. Intermittent or reduced schedule leave: Leave taken in several or more periods, rather than for one continuous period of time, for a single illness or injury. This may include leave of an hour or more to several days at a time. Examples of intermittent leave include leave taken for medical appointments associated with a serious chronic health condition, or leave taken several days at a time, over a period of weeks or months, for chemotherapy, radiation or physical therapy, etc.; a reduced leave schedule means leave that reduces the usual number of hours per work day or work week of an employee. Intermittent leave can be taken for the employee's own qualifying serious health condition or that of an immediate family member.

The duration of approval for Intermittent or Reduced Schedule FML cannot exceed twelve months per request. Should the need for this type of FML continue beyond twelve months, the employee must submit another request and a new Certification form. And if the needs change substantially during the approved twelve month period (from what was originally authorized by the practitioner), a new certification can be required.

7. Serious health condition: An illness, injury, impairment, or physical or mental condition that involves:

A. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility;

B. Any period of incapacity making the employee unable to perform the essential functions of the job, thereby requiring

absence from work, school, or other regular daily activities of more than three consecutive calendar days, that also involves:

1. In person treatment two or more times within a thirty (30) day period (the first treatment must occur within seven (7) days of the initial date of incapacity) and the second must occur within thirty (30) days of the initial date of incapacity as determined by the health care provider.

Or

2. In person treatment by a health care provider on at least one occasion (the treatment must occur within seven (7) days of the initial date of incapacity) that results in a regimen of continuing treatment.

C. Pregnancy and childbirth, including any period of incapacity due to pregnancy and prenatal care.

D. Periodic or continuing treatment (at least twice a year) by (or under the supervision of) a health care provider for a chronic or long-term health condition that may include permanent conditions and those with recurring episodes;

E. Restorative dental treatment, following an injury or removal of a cancerous growth. This may involve removal of natural teeth to ameliorate dental disease, if such removal requires ongoing treatment and the employee is deemed unable to perform his/her job duties for three or more days per the written certification of a practitioner.

F. Substance abuse treatment by a health care provider;

G. Diagnostic tests and examinations to determine whether a serious health condition exists and evaluations of the condition.

8. Twelve (12) month period: The "twelve-month period" during which employees are eligible for twelve (12) weeks of leave will be a period measured forward, beginning on the first date FML is taken. The next twelve-month period begins the first time FML is taken after the end of the previous twelve-month period.

9. FML week: a week of paid or unpaid FML is the same as the employee's normal work week. For example, if an employee normally works five (8) eight-hour days per week, then five 8-hr. days of non-paid leave constitutes one week of FML; if a half-time employee works five 4-hr. days per week, one week of leave equals five 4-hr. days.

V. FAMILY and MEDICAL LEAVE PROVISIONS:

City employees are entitled to a maximum of twelve weeks of unpaid Family/Medical Leave for the reasons listed below provided they meet the requirements of this administrative regulation and the federal "Family and Medical Leave Act of 1993" as amended.

1. For the birth and bonding with a newborn child;
2. For placement of and bonding with a child for adoption or foster care;
3. To care for the employee's spouse/domestic partner, parent or minor child (under 18 years of age) with a serious health condition;
4. Because of a personal serious health condition that makes the employee unable to perform the essential functions of his/her job.
5. To care for a spouse/domestic partner, parent, child, or next of kin who is a servicemember injured or made ill while serving on active military duty.
6. To handle exigencies arising from the active duty status or call to active duty of a spouse/domestic partner, parent, child or next of kin.

Special Provisions: Birth, Adoption or Placement of a Child

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the twelve-month period beginning on the date the birth or placement occurred. Any FML must be used within this one (1) year period. Leave for the entitlement may not be taken on an intermittent or reduced schedule basis.

Although the time is ordinarily approved for one continuous block, a request for splitting the time into several blocks may be approved at the discretion of the appointing authority. If a husband and wife or domestic partners both work for the City, each can request twelve (12) weeks of FML for the purpose of bonding with the child.

Circumstances may require that Family and Medical Leave begin before the actual date of birth or placement of a child. This time may include travel time to take custody of a child in another geographical location. An expectant mother may take such leave before the birth of the child for prenatal care or if her condition makes it medically impossible for her to work. Such leave may begin before the actual placement or adoption of a child if the absence is necessary for the placement or adoption to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with attorneys or physicians, etc.

The law does not require that the source of an adopted child be a licensed placement agency, but the adoption must be formal and legal in all other respects. A formal agreement between the state and the foster family is required for eligibility for leave for the placement of a foster child. In addition, there is no maximum age limit on a child being adopted or placed for foster care for purposes of determining eligibility for leave.

FML taken for adoption or foster care placement of a child does not qualify for paid sick leave or medical leave; however, an employee can elect to use vacation or compensatory time to run concurrently with FML taken under these circumstances.

\ Intermittent or Reduced Schedule FML

Family and Medical Leave may be taken "intermittently or on a reduced leave schedule" under the following circumstances, and when certified by a health care provider:

1. To care for an immediate family member with a serious health condition;
2. For an employee's own serious health condition.

Some examples of permissible use of intermittent leave or a reduced leave schedule include, but are not limited to, a series of medical appointments related to the employee's or immediate family member's qualifying serious health condition, or leave taken several days at a time over a period of weeks or months for chemotherapy, radiation therapy or physical therapy, etc.

An employee who has been approved for intermittent or reduced schedule FML cannot be required to produce a medical statement each time leave is taken. Should the employee's use of intermittent or reduced schedule FML substantially deviate from the original request, (i.e., the employee is absent from work for a longer period of time or more frequently than the expected interval per FML incident), the appointing authority may request an updated physician/practitioner certification form, but no more often than at thirty-day intervals.

Employees are obligated to follow call-in procedures (and can be subject to disciplinary action for failure to do so), except under extraordinary circumstances, and must make reasonable efforts to schedule medical treatment so as not to unduly disrupt the workplace. This includes giving advanced notice to the employee's supervisor of scheduled medical appointments.

An appointing authority may temporarily reassign an employee to an alternative position, with equal benefits and pay, if qualified, for the duration of an intermittent or reduced schedule FML period. After the leave, the employee must be returned to the same or equivalent position. The appointing authority must coordinate any decision to reassign an employee on intermittent/reduced schedule FML with the Employee Relations Section of the Department of Personnel prior to notifying the employee or implementing a temporary reassignment.

VI. SERVICEMEMBER MEDICAL LEAVE

The National Defense Authorization Act for Fiscal Year 2008 amended the FMLA to provide up to twenty-six (26) weeks of unpaid, job-protected leave for an eligible spouse, child, parent or next of kin to provide care for a military person who is undergoing medical treatment, recuperation or therapy in a medical facility, or who is on out-patient status, or is on the temporary disabled retired list due to a serious injury or illness that occurred while on active duty. This leave covers servicemembers in the regular armed forces, National Guard and Reserves.

This leave can be taken only once during a single twelve (12) month period while the employee works for the same employer, but that requirement is per servicemember and per-injury or illness. Husbands and wives working for the same employer are limited to a combined total of twenty-six (26) weeks of leave. The leave may be taken continuously or intermittently or on a reduced leave schedule basis. Employees are limited to a combined total of twenty-six (26) weeks of FML for all qualifying reasons during that year, with the regular twelve (12) week limit applying to other FML reasons for leave. A Certification of Physician/Practitioner must be submitted that provides the same information required for other FML medical circumstances. Leave for this purpose can be granted within five (5) years of the end of the servicemember's

active duty. Paid leave if elected by the employee (sick leave, medical leave, vacation, compensatory time) will run concurrently with the Family and Medical Leave.)

VII. SERVICEMEMBER EXIGENCY LEAVE:

Exigency Leave is authorized by the National Defense Authorization Act for a qualifying exigency when an employee's spouse, son, daughter or parent is called to active military service to assist servicemembers' families in the Reserves, National Guard and certain retired members of the Armed Forces. Exigency leave entitlement is limited to twelve (12) weeks within a twelve (12) month period. Qualifying exigency leave may be taken on an Intermittent or Reduced Schedule basis. Exigency leave covers family members of servicemembers in the regular armed forces, National Guard and Reserves.

A. Short-notice deployment leave of seven (7) calendar days, beginning on the day the military member is notified of an impending call or order to active duty, may be taken to address any issue that arises because a covered military member is notified of a call or order to active duty seven (7) or fewer days prior to the date of deployment.

B. Military events and related activities: to attend any official military ceremony, program or event related to the call to active duty and to attend support or assistance programs and informational briefings sponsored by the military, one of its service organizations or the American Red Cross.

C. Childcare and school activities: to arrange for alternative childcare for a biological, adopted or foster child, a stepchild or a legal ward of a covered military member or a child for whom a covered servicemember stands in loco parentis who is either under age 18 or older and incapable of self-care; to provide childcare on an urgent, immediate-need basis; to enroll in or transfer a child to a new school or day care facility; or to attend meetings with school or daycare facility staff when due to circumstances arising from the active military duty.

D. Financial and Legal Arrangements: to make or update financial or legal arrangements to address the service member's absence, such as powers of attorney, etc. or to act as the servicemember's representative before a federal, state or local agency to obtain, arrange or appeal military service benefits while a servicemember is on active duty and for a period of 90 days following the termination of active duty status.

E. Counseling: to attend counseling for the employee (provided by someone other than a health care provider) for the covered servicemember or his or her child, if the counseling arises from the active duty or call to active duty status of a covered military member.

F. Rest and recuperation: to spend time with a covered servicemember who is on short-term, temporary rest and recuperation leave during a period of deployment.

G. Post-deployment activities: to attend arrival ceremonies, reintegration briefings, etc., sponsored by the military, for ninety (90) days following the termination of active duty; or

To address issues that arise for the death of a servicemember while on active duty, such as meeting and recovering the body and making funeral arrangements.

H. Additional activities: to address other events that arise out of the active duty or call to active duty that both employer and employee agree qualify as an exigency and agree to the timing and duration of the leave.

The first time an employee requests leave for a qualifying exigency, commenced or will commence, arising out of active duty or a call or order to active duty of a covered servicemember, the employer may require the employee to provide a copy of the servicemember's active duty orders or other documentation issued by the military. This documentation must only be provided once per call to duty. The employee may be requested to sign a certification describing the facts regarding the qualifying exigency, sufficient enough to support the need for leave, including the type of exigency and any available written documentation supporting the request for leave.

Other information the employer may require includes the date the qualifying exigency commenced or will commence and if the leave is for a continuous period of time, the beginning and end dates for such absence. If the leave is on an intermittent or reduced leave basis, there should be an estimate of the frequency and duration of the exigency.

Employees taking FML under these circumstance can elect to take vacation or compensatory time to run currently with FML.

VIII. EMPLOYEE APPLICATION FOR FAMILY/MEDICAL LEAVE:

An employee must give at least thirty (30) days advance notice to the employer of the need to take Family/Medical Leave when it is foreseeable for a serious health

condition of the employee or a family member, or the planned medical treatment for a serious injury or illness of a covered servicemember or for the placement of a child for adoption or foster care. In such cases, an employee will submit the following to the appointing authority:

1. A completed Request for Family/Medical Leave of Absence form; Request for Military Family/Medical Leave of Absence for Care of a Servicemember form; Request for Military Family/Medical Leave for Active Service Exigencies form

OR

2. A completed Request for Intermittent or Reduced Schedule Family/Medical Leave form or a completed Request for Intermittent or Reduced Schedule Military Family/Medical Leave for Care of a Servicemember form; or Request for Intermittent/Reduced Scheduled Military Family/Medical Leave for Active Duty Exigencies form AND

3. A completed Certification of Physician or Practitioner form or documentation related to the adoption or foster care placement; OR

4. Completed Certification for serious injury or illness of a covered servicemember form and documentation of active duty status or call to active duty status and information regarding the need for exigency leave.

(Note: In cases involving elective procedures and intermittent or reduced schedule leave, an employee is expected to consult with the appointing authority prior to scheduling medical treatment, so that treatment can be arranged at times that will not disrupt unduly the operations of the department/division. Scheduling of treatment is however, always subject to the approval of the health care provider.)

When unforeseen medical circumstances prevent giving advanced notice of the need for FML, notice must be given as soon as practicable under the facts and circumstances of the particular case and generally within the time prescribed by the appointing authority's usual and customary notice requirements applicable to such leave. If the employee is unable to do so, notice may be given by a family member.

IX. APPOINTING AUTHORITY RESPONSE AND EMPLOYEE NOTIFICATION:

It is the appointing authority's responsibility to offer the leave as Family/Medical Leave, whether or not the employee requests it, based on knowledge or information suggesting that a serious health condition or other qualifying event has occurred. It is

recommended that a declaration of conditional FML should be made on the fourth day of absence for personal illness or for that of a qualifying relative. FML will begin on the first day of the period of absence. The appointing authority can declare an employee's absence as FML, even without compliance by the employee in submitting required documentation, but such a determination must be communicated to the employee in writing. The Department of Personnel has the responsibility for making a final determination that a leave of absence will be covered under FML and, therefore, credited toward the City's obligation to provide FML. The appointing authority must send the following documents to the employee within five (5) business days of receiving information of the possible need for FML:

1. Special Notice to Employees Requesting Family and Medical Leave/Your Rights Under the Family and Medical Leave Act of 1993;
2. A completed Eligibility Notice to Employee under Family/Medical Leave Act form;
3. One of the following forms as appropriate: Request for Family/Medical Leave of Absence or Request for Intermittent/Reduced Schedule Family/Medical Leave Absence; or Request for Military Family/Medical Leave of Absence for Care of a Servicemember or Request for Intermittent/Reduced Schedule Military Family/Medical Leave for Care of a Servicemember or Request for Military Family/Medical Leave of Absence for a Qualifying Exigency; or Request for Intermittent/ Reduced Schedule Military Leave of Absence for a Qualifying Exigency;
4. Certification of Physician or Practitioner form and Fitness for Duty form (if applicable). If the appointing authority wants the physician/practitioner to specifically address whether the employee can perform the essential functions of the job, a copy of those functions and notification of the requirement must be given to the employee at the time that FML is approved; or
5. A request for verification of adoption or foster placement or Active Duty status or call to Active Duty Status and qualifying exigency.

The appointing authority must notify the employee of his or her eligibility to take FML within five (5) business days of receiving a request or acquiring knowledge that an employee may qualify by sending the completed Notice of Eligibility for Family and Medical Leave.

The appointing authority must approve (designate) or disapprove FML by completing the reverse side of the request form submitted by the employee, dating it and giving a copy to the employee within five (5) business days. If not all required documentation has been submitted, conditional written approval of FML should be granted within five (5) business days, contingent upon submission of the required documentation and review by the Department of Personnel. Employees, in accordance with the Act, must be given a reasonable time period to comply, i.e., at least fifteen (15) days, unless the circumstances of the leave request dictate the need for additional time. FML documentation can be faxed. An appointing authority may not require more medical information than that requested on the Certification of Physician or Practitioner form except under the following circumstances:

1. If the information on the certification is illegible, missing or incomplete, the appointing authority should give the employee a reasonable opportunity [at least seven (7) days] to remedy the deficiency. This request must be given to employee in writing and state what additional information is required.
2. If an appointing authority has reason to doubt the validity of a medical certification, he/she may require the employee to obtain a second opinion (and in some cases a third opinion) at the employer's expense. However, there are very specific restrictions in the Act regarding requirements for second or third opinions and, furthermore, there are serious penalties for unlawful denials of leave requests. Therefore, an appointing authority must coordinate any "second/third opinion" requests or planned denial of leave requests with the Employee Relations Section of the Department of Personnel, 622-3563, prior to advising the employee of such determinations.
3. Under most circumstances medical re-certification (updated medical certification) can be required no more frequently than every thirty (30) days. If an appointing authority would like to request re-certification, he or she should contact Personnel to ascertain if it is appropriate to do so.

Following a review of the request, the appointing authority or designee should fill out the "appointing authority response," and include the amount of leave to be counted against the employee's FML entitlement, if it is known at the time of designation (e. g. hours, days, weeks). The employee should also be advised whether accrued paid leave time is available to run concurrently with the FML leave. The appointing authority should forward a copy of the completed application/response form to the employee.

Under the City's Family and Medical Leave Program, any paid leave taken (sick leave, medical leave, vacation or compensatory time) will run concurrently with the FML and will count toward the employee's FML entitlement. (See Section XIII. Payroll Procedures-Processing Family and Medical Leave)

X. CONTINUATION OF BENEFITS:

Health Insurance Coverage during Non-Paid FML

The City will continue to pay for the employee's health care and basic life insurance coverage while an employee is on an approved non-paid "Family and Medical Leave of Absence." However, the employee will be responsible for arranging payment for any optional plans, including dependent medical coverage, by making arrangements with the Employee Benefits Section. If the employee allows optional plans to lapse, coverage can be resumed when the employee returns to duty.

An employee on unpaid FML, who does not pay his or her portion of individual health care coverage premiums during the leave period, will be assessed the unpaid balance by payroll deduction, during the first two bi-weekly payroll periods after returning to work. Dependent premiums may also be paid during the length of the FML, or the balance will be deducted during the first two bi-weekly pay periods after returning to work.

Other Benefits during Non-Paid FML (Vacation Leave, Medical Leave and Retirement)

During non-paid Family/Medical Leave, the employee does not continue to accrue additional sick leave. However, the time spent on leave counts as continuous service for purposes of computing years of service and vacation accrual rates. With respect to pension benefits, any period of non-paid Family/Medical Leave will be treated as continued service, i.e., no break in service, for purposes of vesting and eligibility. However, the non-paid leave will not be counted toward creditable service.

XI. APPROVAL, OR DENIAL OF A FAMILY/MEDICAL LEAVE REQUEST

Under federal law, a FML request cannot be denied except as follows:

1. He or she does not meet the eligibility requirements.
2. The request is not for a qualifying reason or the relationship is not covered.

3. The employee does not provide, in a timely manner, a requested medical certification or other required documentation.
4. The appointing authority discovers that the documentation is fraudulent.
5. An employee tests positive for drugs, refuses to test or tests positive for alcohol on a second occasion.

XII. RETROACTIVE DESIGNATION OF FAMILY/MEDICAL LEAVE:

The retroactive designation of leave as Family/Medical Leave can be made only under the circumstances listed below. Retroactive designations should be made in coordination with the Employee Relations Section of the Department of Personnel.

1. If the appointing authority learns after a leave has begun that it is for an FML purpose, the leave can be designated as FML retroactively.
2. If the appointing authority learns that a leave was for a FML purpose after the employee has returned to work, it can be designated retroactively, if it is done within two (2) business days of the employee's return. In addition, when an employee wants retroactive FML protections, he or she must request it within two (2) days of returning from leave for an FML purpose.
3. An employer may retroactively designate leave, with appropriate notice, if the failure to timely designate it does not cause harm or injury to the employee.

XIII. PAYROLL PROCEDURES - PROCESSING FAMILY/MEDICAL LEAVE:

The following step-by-step process is designed to provide a timely response to requests for a Family/Medical Leave of Absence (FML):

1. The EMPLOYEE submits a Request for Family/Medical Leave of Absence form or, when appropriate, a Request for Intermittent or Reduced Schedule Family/Medical Leave, form, etc., to the APPOINTING AUTHORITY. The EMPLOYEE must decide what, if any, paid leave to request. (Note: These forms should be mailed to the employee on the fourth day of continuous illness; see Section IX. on Page 10).

2. The APPOINTING AUTHORITY must respond to any request within five (5) business days of receiving the application and verifying that the employee meets eligibility, based on tenure, hours worked within the preceding twelve months and documentation of a qualifying event. After completing and signing the Eligibility Notice and the Appointing Authority Response to Family/Medical Leave Request on the reverse side of the form, a copy should be given to the EMPLOYEE.

The EMPLOYEE must provide any additional supporting documentation, if required by the APPOINTING AUTHORITY, within fifteen days of receiving the request. The EMPLOYEE should be told to contact the EMPLOYEE BENEFITS SECTION of the Department of Personnel to make arrangements to pay for any optional insurance coverage they wish to continue while on non-paid FML.

3. The PAYROLL SPECIALIST should verify whether paid leave will be applied to the FML. If the leave is non-paid, the PAYROLL SPECIALIST must complete an Employee Status form, indicating that the reason for leave is FML. The original Employee Request for Family/Medical Leave of Absence form, original Certification of Physician or Practitioner form, any other supporting documentation and the Employee Status form (if applicable) should be forwarded to the EMPLOYEE RELATIONS SECTION of the Department of Personnel at 1114 Market Street, Room 700.

4. The EMPLOYEE RELATIONS SECTION will review all FML documents and render final approval. If there is insufficient information to determine whether the request is a qualifying event, a request for additional information will be sent to the APPOINTING AUTHORITY. If final approval is denied, an explanation of the denial will be sent to the APPOINTING AUTHORITY. The APPOINTING AUTHORITY must then forward a letter to the employee explaining why FML is being denied.

5. If approved leave is granted on an "Intermittent or Reduced Schedule" basis, the EMPLOYEE must submit a Report of Intermittent/Reduced Schedule Family/Medical Leave Taken form to the IMMEDIATE SUPERVISOR during any bi-weekly pay period in which leave is taken. This form documents the date(s) and number of hours of each incident of Family/Medical Leave, as well as the total hours of leave taken in the pay period. The form should be forwarded to the PAYROLL SPECIALIST, who will record FML hours used on the payroll and

deposit the form(s) in an appropriate departmental file. Intermittent or Reduced Schedule Leave must be requested and approved at least once annually, if requested for a duration of one year or more.

XIV. GENERAL PROVISIONS

Confidentiality and Record Keeping

In order to comply with the confidentiality requirements in the "Family and Medical Leave Act for securing personal medical information," requests for FML should be submitted by the employee directly to the Appointing Authority, or his or her designee. Records and documents relating to certifications, re-certifications or medical histories of employees or an employee's family member should be maintained as a confidential medical record in separate files/records from a personnel file.

Posting Requirement

Every employer, subject to the "Family and Medical Leave Act," is required to keep posted on the premises, in a conspicuous place, a notice explaining the Act's provisions and information concerning the procedures for filing complaints of violations of the Act with the Wage and Hour Division of the Department of Labor. Posters are available from the Department of Personnel to all departments to satisfy this requirement. Appointing authorities are responsible for ensuring that the posters are placed in areas easily accessible and normally frequented by employees. In addition, an employer should provide a copy of this Administrative Regulation No. 133 to employees, on request.

Discrimination/Retaliation Prohibited

Be advised as specified in Section 825.220 of the FMLA, it is unlawful for an employer to interfere with, restrain, or deny the exercise of (or attempt to exercise) any right provided by the Act. It is also unlawful for an employer to discharge or discriminate against any person for opposing or complaining about any unlawful practice under this act, etc.

Given these prohibitions, an appointing authority cannot weigh an employee's use of FML as a negative factor in employment actions, including promotions, performance evaluations or discipline, etc. Nor can the use of FML result in warning letters, or loss of benefits, such as the use of sick leave, medical leave, vacation or compensatory time taken during appropriate FML circumstances.

Coordination with the Department of Personnel

The "Family and Medical Leave Act of 1993" as amended is a complex and evolving law. Therefore,

1. Any response to circumstances not expressly addressed in this administrative regulation should be determined by the Department of Personnel.
2. In addition, any actions taken relative to Family/Medical Leave must be considered, when applicable, in conjunction with other federal and state regulations, i.e., the "Americans with Disabilities Act," workers' compensation laws, etc.
3. An appointing authority must coordinate any decisions to deny, delay, or terminate Family/Medical Leave with the Department of Personnel, Employee Relations Section, prior to notifying the employee or implementing such decisions.
4. In addition, any appointing authority, notified by the Department of Labor of a pending investigation of alleged violation of this Act, should immediately contact the Director of Personnel and the City Counselor's Office.
5. Questions regarding this administrative regulation or provisions of the "Family and Medical Leave Act of 1993" should be directed to the Employee Relations Section of the Department of Personnel, at 622-3563.

Training Opportunities

Training is offered periodically by the Department of Personnel on the provisions of this regulation and the Family and Medical Leave Act of 1993, as amended, or it can be provided upon request. It is highly recommended that all employees who have responsibility for reviewing and approving FML requests, as well as employees with payroll responsibility, attend these sessions.

DEPARTMENT OF PERSONNEL

Richard R. Frank
Director

Distributed to: Department Directors, Appointing Authorities, Management and Payroll Personnel

Issued on July 31, 2010

Notice of Eligibility and Rights & Responsibilities

Request for Family/Medical Leave of Absence

Request for Family/Medical Leave of Absence on an Intermittent/Reduced Schedule Leave Basis

Certification of Health Care Provider for Employee's Serious Health Condition

Certification of Health Care Provider for Family Member's Serious Health Condition

Fitness-For-Duty Medical Certification for the City of St. Louis

Report of Intermittent/Reduced Schedule Family/Medical Leave Taken

Request for Military Family/Medical Leave of Absence For for Care of Service Member

Request for Intermittent/Reduced Schedule Military Family/Medical Leave of Absence for Care of Service Member

Certification for Serious Injury or Illness of Covered Servicemember-for Military Family Leave

Request for Military Family/Medical Leave of Absence for Active Military Service Exigencies

Request for Intermittent/Reduced Schedule Military Family/Medical Leave of Absence for Active Military Service Exigencies

Certification of Qualifying Exigency for Military Family Leave