



**City of Vernon, California
Human Resources Policies and Procedures**

[Signature]
Director of Human Resources
[Signature]
City Administrator

Number: V-4 Effective Date: 2/07/2017

SUBJECT: FAMILY, MEDICAL, PREGNANCY DISABILITY, AND CITY PAID PARENTAL LEAVE POLICY

PURPOSE:

To define the City of Vernon's policy and procedure with regard to family, medical, pregnancy disability leave, and City paid parental leave, in accordance with State and Federal laws including the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and the Pregnancy Disability Leave (PDL) provisions of the California Fair Employment and Housing Act (FEHA)¹ and the City of Vernon's City Paid Parental Leave Policy.

DEFINITIONS:²

Spouse - A husband or wife, as defined or recognized under state law for purposes of marriage.

Domestic Partners – Two adults in a domestic partnership registered with the State of California and pursuant to Family Code section 297.

Child - A biological, adopted or foster child, a stepchild, a legal ward (guardianship or conservatorship), or a child of a person standing *in loco parentis*. A child must be under 18 years of age, or if over 18 incapable of self-care because of a mental or physical disability as defined under law.

Although pregnancy disability is a serious health condition under the FMLA, FEHA separately provides for up to 4 months of unpaid leave for a pregnancy disability (PDL). FEHA pregnancy disability leave (PDL) runs concurrently with FMLA leave. This distinction shall apply if necessary to any determination of leave benefits under this policy.

²Words used in the policy will have the meaning as assigned to them by the FMLA (29 U.S.C. §§ 2601-2654), the CFRA (California Government Code §§ 12945.2 and 19702.3) and FEHA (California Government Code § 12945)

Eligible Employee – An employee who has been employed by the City of Vernon for at least twelve months (consecutive or non-consecutive) and has worked a minimum of 1,250 hours during the 12-month period immediately preceding the effective date of a leave request.

Parent - A biological, foster, or adoptive parent, a step-parent, a legal guardian, or other person who, stood *in loco parentis* to the employee when the employee was a child.

Health Care Provider - An individual holding either a physician's or a surgeon's certificate issued pursuant to Business and Professions Code section 2080 et seq., an osteopathic physician's and surgeon's certificate issued pursuant to Business and Professions Code section 2080 et seq., an individual duly licensed as a physician, surgeon or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises the treatment of the serious health condition, or any other person who meets the definition of "others capable of providing health care services" under the FMLA.

Serious Health Condition³ - an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care (an overnight stay) in a hospital, hospice, or residential health care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
2. Continuing treatment or continuing supervision by a health care provider for a serious health condition including:
 - A. A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition; or
 - B. A period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires periodic visits for treatment by a health care provider over an extended and/or episodic period (e.g. asthma, diabetes, epilepsy), or
 - C. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, severe stroke, terminal cancer), or
 - D. A period of absence to receive multiple treatments for an injury or condition which would result in incapacity of more than three days if not treated (e.g. chemotherapy or radiation for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

Short term conditions requiring only brief treatment and recovery such as the common cold, the flu, earache, upset stomach, minor ulcers, headaches, routine dental or orthodontia are not "serious health conditions". Voluntary cosmetic treatments that are not medically necessary are not "serious health conditions" unless inpatient care is required or complications arise.

³Although pregnancy disability is a serious health condition under the FMLA, the PDA already provides for 16 weeks of independent leave for pregnancy disability. Pregnancy disability taken as PDA will concurrently count as FMLA leave, but not as CFRA leave.

POLICY:

All eligible employees who meet the applicable time of service requirements may be granted family, medical, pregnancy disability leave, and/or City paid parental leave consistent with applicable laws and this City policy, which may include use of appropriate accrued paid leave, unpaid leave, and/or paid parental leave, assuming the employee submitted a Leave of Absence Request Form in a timely manner and the request has been approved.

For employees not eligible for family, medical, and/or City paid parental leave, the City of Vernon's General Leave Policy may be applied based upon review of business considerations and the individual circumstances involved. Determination regarding the approval of a general leave of absence, will be made by the City Administrator. Except for those employees designated as "highly" compensated employees (as defined in Section 8, subsection 1, *infra*), employees will be returned to the same or to an equivalent position.

Generally, family or medical leave will consist of utilizing appropriate accrued paid leave and unpaid leave. For a leave of absence that is based on the employee's own serious health condition, employees are required to use their accrued leaves including but not limited to paid sick leave first, then paid vacation leave. Any other accrued leave, such as, in-lieu holidays, compensatory time, and administrative leave, are optional and may be paid in the order of the employee's choosing. The remainder of the leave period will then consist of unpaid leave. If the family or medical leave is for an immediate family member with a serious health condition, the employee is required to use paid vacation leave. The use of any other accrued leave, such as in-lieu holidays, compensatory time, and administrative leave, is optional for employees and may be paid out in the order of the employee's choosing. The remainder of the leave period will then consist of unpaid leave. Accrued sick leave may not be used when the leave of absence is for an immediate family member with a serious health condition, except as otherwise provided by law.

Pregnancy disability leave will consist of utilizing appropriate accrued paid leave and unpaid leave. Employees are required to use accrued sick leave, all other accruals are optional and may be paid in the order of the employee's choosing.

City paid parental leave will consist of six (6) weeks (inclusive of any City holidays) of paid leave for the birth of the employee's child and in order to care for the child or the placement of a child with the employee for adoption or foster care. If an employee qualifies for leave (under FMLA, CFRA, or PDL), City Paid Parental Leave will run concurrently and must be used during the approved leave.

ELIGIBILITY

All employees who meet the applicable time of service requirements may be granted family or medical leave consisting of appropriate accrued paid leave, and/or unpaid leave for a designated period of time which is aligned with the parameters set forth in this policy.

Family and Medical Leave

Employees must have at least twelve (12) months of service at the City of Vernon, working at least 1,250 hours during the 12-month period immediately preceding any leave for the following specified family and medical reasons.

- 1) The birth of the employee's child and in order to care for the child.
- 2) The placement of a child with the employee for adoption or foster care. Foster care must be by a formal agreement between the foster parent and the State, County, or licensed foster care placement agency.
- 3) To care for a spouse, child or parent who has a serious health condition.
- 4) A serious health condition that renders the employee incapable of performing the functions of his or her job.
- 5) Any spouse, son, daughter, or parent of the employee serving in the regular Armed Forces (including the National Guard and Reserves) who has been notified of an impending call to active duty status in support of a contingency operation or deployment to a foreign country.
- 6) An eligible employee who is the spouse, son, daughter, parent, or next of kin of an Armed Forces service member who is undergoing medical treatment, recuperation or therapy for a serious injury or illness sustained in the line of duty while on active duty is entitled up to 26 weeks of leave in a single 12-month period to care for the service member. The veteran must have been a member of the Armed Forces (including the National Guard or Reserves) at any time within five (5) years preceding his or her treatment for the serious injury or illness. An employee may also take this leave to care for an active service member or veteran who had a pre-existing injury that is aggravated while on active duty.

The lowest time increment allowed for intermittent family and medical leave shall be consistent with the City's payroll policy on accounting for time worked.

Eligible employees who work less than full time (40 hours per week) are entitled to utilize accrued paid leave(s) and will be compensated at the current rate of pay. For example, if an employee works 25 hours per week, his or her leave period will consist of 12 weeks of 25 hours (300 hours).

If both parents are employed by the City, the combined leave for both employees for the birth, adoption, foster care placement of their child, or for care of a sick parent, may not exceed 12 weeks. However, any unused portion of either employee's 12-week entitlement would still be available for other authorized leave purposes.

California Pregnancy Disability Leave (PDL)

All female employees, regardless of service time, are eligible to take an unpaid leave on account of a disability caused or contributed to by pregnancy, childbirth, or recovery there from for a reasonable period of time not to exceed four (4) months. Such leave may be taken intermittently or used for a reduced work schedule, when medically advisable.

PDL will consist of using accrued paid sick leave. Any other accruals are optional in the order of the employee's choosing.

Pregnancy disability leave is separate from family and medical leave. For example, a female employee may qualify for up to four (4) months of pregnancy disability leave, and still be eligible for up to twelve (12) weeks of family and medical leave to care for the newborn child or any other valid use of family and medical leave.

The employee may request a transfer to a less hazardous or strenuous position if she is capable of working in such position even though she is temporarily disabled due to pregnancy, childbirth, or a related medical condition.

California Family Rights Act (CFRA)

Employees must have at least twelve (12) months of service at the City of Vernon, working at least 1,250 hours during the 12-month period immediately preceding the leave for the following specified reasons:

Birth of child for purposes of bonding.

Placement of a child in the employee's family for adoption or foster care.

For the serious health condition of the employee's child, parent or spouse.

For the employee's own serious health condition.

The minimum duration for a CFRA leave taken for the birth, adoption, or foster care placement of a child shall be in two week increments with durations of less than two weeks on any two occasions.

CFRA runs concurrently with FMLA for a non-pregnancy leave. For a pregnancy leave, CFRA begins after the pregnancy disability ends, and can be used solely to bond with a newborn.

City Paid Parental Leave

All regular employees employed by the City of Vernon for at least twelve (12) months, and who have worked at least 1,250 hours during the preceding 12-month period are eligible for City Paid Parental Leave for up to a maximum of one continuous period not to exceed six (6) weeks in a twelve month period. City Paid Parental Leave will commence on the

employee's regular work day following the child's date of birth or the placement of the child with the employee for adoption or foster care.

If both parents are employed by the City, the combined City Paid Parental Leave for both employees, for the birth, adoption, or foster care placement of their child, for the purpose of care or bonding, may not exceed a combined six (6) weeks and must be taken as one continuous period by each parent, i.e., one parent takes four (4) continuous weeks and then the other parent takes two (2) continuous weeks, for a total of six (6) weeks.

No employee may be absent on City Paid Parental Leave for more than six (6) calendar weeks, regardless of work schedule or assignment. The City Administrator may make an exception and allow additional City Paid Parental Leave upon recommendation from the Director of Human Resources, if two qualifying events occur in the same year.

If an employee qualifies for leave under FMLA, CFRA, or PDL, City Paid Parental Leave must run concurrently and must be used during the approved leave.

The employee's pay while on City Paid Parental Leave shall be at their current regular rate of pay, excluding out of class pay, acting pay, and interim assignment pay. No employee may receive more pay while on City Paid Parental Leave than they would have received if working. City Paid Parental Leave does not carry over to the next calendar year nor will it be paid out in cash if not used. An employee must first exhaust all City Paid Parental Leave, then applicable accruals, consistent with applicable law and this policy, before taking unpaid leave.

Employees on City Paid Parental Leave will not suffer any breaks in service for purposes of seniority or other City benefits provided prior to the leave, provided all procedures have been followed appropriately. City Paid Parental Leave will not be considered "time worked" for purposes of calculating overtime.

ENTITLEMENT PERIOD

Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for a covered military service member) of leave during any 12 month period. The 12 month period is defined as a rolling 12 month period measured backward from the date leave is taken and continuous with each additional leave day taken.

Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

Leaves for the birth, adoption, or placement of a child must conclude no later than twelve months after the date of the birth or placement of the child.

OTHER

Employees not eligible for FMLA, PDL, CFRA and/or City Paid Parental Leave may submit a request for leave under the City of Vernon's General Leave Policy.

REQUESTING/GRANTING LEAVE

An employee is responsible for requesting family, medical, pregnancy disability leave, and/or City paid parental leave. An employee requesting leave must complete a Leave of Absence Request Form and return it to Human Resources at least 30 days before the leave begins. In the case of an unforeseen event or incapacitation, notification must be made by the employee or the employee's authorized representative to Human Resources as soon as the need arises and no later than two business days after leave has commenced. Failure to request leave under this policy may defer or even disqualify requests for leave depending on the circumstances.

An application for leave based on pregnancy disability, or the serious health condition of the employee or the employee's spouse, domestic partner, child, or parent, must be accompanied by a Medical Certification Form completed by the applicable health care provider, except in an emergency as provided below. All medical information shall be maintained in a confidential manner by Human Resources and disclosed only to the extent necessary to process the request for leave and in conformance with law.

An employee must sufficiently explain the purpose of the leave so that Human Resources can determine whether it qualifies as family, medical, pregnancy disability leave, and/or City paid parental leave. This explanation is necessary even if accrued paid leave (e.g. vacation or sick leave) shall be used concurrently with the otherwise unpaid leave under this policy.

Employee will have 15 days to provide medical certification otherwise the FMLA leave may be denied. For City paid parental leave, employees must provide notice to the Human Resources Department no later than two (2) business days from the date of the event, otherwise City paid parental leave may be denied. Additionally, for the birth of the employee's child, a copy of the hospital certificate and/or birth certificate must be submitted to the Human Resources Department within five (5) business days of the birth and for the placement of a child with the employee for adoption or foster care, a copy of the formal agreement between the foster parent and the State, County, or licensed foster care placement agency must be submitted to the Human Resources Department within five (5) business days of the placement.

If the employee is requesting injured service member leave, the employee must provide certification of serious injury or illness from Department of Defense or Department of Veterans Affairs.

If necessary, any taken leave may be retroactively designated as family and medical leave, pregnancy disability leave, or City paid parental leave.

Human Resources shall process the leave request in consultation with the relevant Department Head and, if necessary, the employee's supervisor. Employees are obligated to minimize disruption to the workplace as much as possible by, for example, coordinating any medical appointments with the Department's needs.

CONCURRENT USE OF PAID AND OTHER LEAVE

For FMLA leaves of absence that are based on an employee's own serious health condition, an employee who has been granted leave under this policy must use concurrently, during the otherwise unpaid leave granted by this policy, his or her accrued leaves, included but not limited to paid sick leave first and then paid vacation leave. All other accruals are optional and in the order of the employee's choosing.

If the FMLA leave is for one of the other qualifying events, employees are required to use accrued paid vacation time for any part of a family/medical leave taken for any reason. All other accruals are optional and in the order of the employee's choosing. Paid sick leave may only be used if consistent with applicable law and this policy. The accrued paid time runs concurrently with the family and medical leave. The remainder of the leave period will then consist of unpaid leave. Such concurrent use of paid leave may not contradict provisions of any applicable long or short term disability policies. Any leave used under this policy, where paid leave is also concurrently used, shall count toward the 12-week cap on benefit entitlements discussed below.

A leave of absence taken pursuant to workers' compensation law or a temporary disability benefit plan (Short/Long Term Disability Insurance or other) shall also be counted, to the extent that such leave of absence qualifies, as family and medical leave or pregnancy disability leave under this policy and related law.

BENEFITS COVERAGE DURING LEAVE

During authorized leave under this policy, an employee will be retained on the City's health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions (if any) that they made to the plan before taking leave; failure to do so may result in loss of coverage.

Additionally, employee will still be responsible for making any payments to the City of Vernon for any loans that are normally deducted from an employee's paycheck.

An employee's hire date and job entry date will not be adjusted as a result of a paid leave. The review date for performance and merit salary increases shall be subject to adjustment pursuant to applicable policy. An employee on paid leave will continue to receive their regular rate of pay, and accrue sick leave, vacation leave, and holidays at their normal rate.

There shall be no accumulation of seniority, or earning of supplemental benefits (such as vacation or sick leave) made to the employee during a period of unpaid leave of absence, except as otherwise provided by law. New accruals of sick leave, vacation and holiday credits will be available to the employee upon reinstatement from an unpaid leave.

INTEGRATION WITH WORKERS COMPENSATION

Although FMLA leaves of absence are generally unpaid, there are exceptions when an FMLA leave of absence overlaps with a leave of absence due to an injury on the job.

A. Public Safety Employees

Eligible Public Safety employees who sustain a work-related injury or illness are entitled to full pay and full benefit accruals for one full year, if the claim has been accepted as industrial. Therefore, FMLA leaves of absence do not commence until after a public safety employee has completely utilized their 1-year statutory leave under Department of Labor Code Section 4850. Upon completion of the one full year of full pay and full benefit accruals, safety employees shall receive two-thirds of their average weekly earnings (up to the maximum of California's published temporary total disability (TTD) rates during the period of such temporary total disability. Eligible public safety employees must use one-third of their accrued leaves per pay period, including but not limited to paid sick leave first then vacation pay. All other accruals are optional and in the order of the employee's choosing, not to exceed 100% of the employee's regular weekly earnings to supplement temporary total disability benefits. Employees may be eligible for temporary total disability benefits up to 104 weeks (includes 4850 one year statutory leave)

B. Miscellaneous Employees

Miscellaneous employees who sustain a work-related injury or illness resulting in a serious health condition will receive a 90-day full salary continuance, and are placed on FMLA concurrently with workers' compensation benefits. Miscellaneous employees are entitled to accrue paid leaves such as sick and vacation benefits during this time period. Upon completion of the 90-day salary continuance, miscellaneous employees shall receive two-thirds of their average weekly earnings (up to the maximum of California's published temporary total disability (TTD) rates during the period of such temporary total disability. Employees must use one-third of their accrued leaves per pay period, included but not limited to paid sick leave first and then vacation pay. All other accruals are optional and in the order of the employee's choosing, not to exceed 100% of the employee's regular weekly earnings to supplement temporary total disability benefits. Employees may be eligible for temporary total disability benefits up to 104 weeks (includes 90-day salary continuance).

UNION/ASSOCIATION DUES

The employee is responsible for maintaining dues to the employee association, if required.

REINSTATEMENT

With the exception of those employees designated as "key employees", an employee returning to work from leave will be restored to his or her former position or to a position with equivalent pay, benefits, and other terms and conditions if the employee's position ceases to exist because of legitimate business reasons unrelated to the leave. A determination as to whether a position is an "equivalent position" will be made by the City.

The City of Vernon cannot guarantee that an employee will be returned to his or her original job.

The City may refuse to reinstate a "key employee" returning from family and/or medical leave (but not from pregnancy disability leave) to the same or a comparable position if all of the following apply:

1. The employee is an exempt employee who is among the highest paid 10% of the City's employees who are employed within 75 miles of the work site at which the employee is employed.
2. The refusal is necessary to prevent substantial and grievous economic injury to the employee and the operation of the City.
3. The City notifies the employee of the intent to refuse reinstatement at the time the City determines the refusal is necessary under subparagraph (2).
4. In any case in which the leave has already commenced, the City shall give the employee a reasonable opportunity to return to work following the notice prescribed by subparagraph (3).

The City may refuse to reinstate an employee for any other reasons permitted under Federal or State law.

RETURN FROM LEAVE

An employee on leave is expected to return to work on the next work day following the last day of the approved leave period. If an employee wishes to return to work prior to the expiration of a leave, notification must be given to Human Resources at least two (2) working days prior to the employee's revised return date.

Before returning from a leave, the employee must submit to Human Resources a Return to Work Medical Leave Certification Form from the health care provider stating that the employee is able to return to work. Such release to return to work must be approved by the City before the employee may return to work.

ADDITIONAL LEAVE

Employees who desire leave over and beyond CFRA, FMLA, PDL, and/or City Paid Parental Leave, may request additional leave in accordance with the City of Vernon's General Leave Policy. Unless authorized by the City Administrator, leave requests may not exceed a combined total of one year under the various leave policies.

FAILURE TO RETURN FROM LEAVE

The failure of an employee to return to work upon the expiration of an authorized leave of absence may subject the employee to dismissal.

PROCEDURES:

Responsibility

Action

REQUESTING/GRANTING LEAVE

Employee

1. Provides Human Resources with a completed Leave of Absence Request Form at least 30 days prior to the beginning of the leave or in the case of an unforeseen event, as soon as possible.
2. Provides Human Resources with a completed Medical Certification Form for leave of pregnancy disability or the serious health condition of the employee, or the employee's spouse, child, or parent. For City Paid Parental Leave, a copy of the child's hospital and/or birth certificate or a copy of the formal agreement between the foster parent and the State, County, or licensed foster care placement agency must be provided.

Human Resources

3. Upon receipt of the request for leave, notifies the Department Head or designee that a request for leave for certain dates has been submitted by the employee.
4. Determines if the request for leave meets the entitlement criteria under this policy and law.
5. Consults with the Department Head or designee about any scheduling or other issues related to the request for leave.
6. Approves and designates the leave if the request complies with this policy and law.
7. If necessary, makes a preliminary approval and designation if any requested medical certification has not yet been received or confirmation is otherwise pending.
8. Notifies the employee of the approval, preliminary approval, or non-approval of the request for leave and the underlying reasons.
9. Notifies the supervisor and the Department Head or designee of the approval, preliminary approval, or lack of approval of the request for leave.

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| | 10. Notifies the supervisor of the requirements regarding use of paid leave and unpaid leave. |
| | 11. Prepares a Personnel Action Form (PAF) indicating the effective date of the leave (first day of leave usage). |
| Supervisor | 12. Ensures that the employee's time card is coded with appropriate family, medical, pregnancy disability, and/or City paid parental leave hour types (contact Payroll for specific code information). |
| Employee | 13. Maintains the employee's share of any health benefit contributions under the same conditions that applied before leave commenced. |
| | 14. Maintains union/association dues, if applicable. |
| | 15. Remits any appropriate payments in response to billing advice from the City of Vernon. |

RETURNING FROM LEAVE

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| Employee | 16. Notifies Human Resources that employee will be returning to work, but:

When returning prior to the expiration of a family and/or medical leave, provides Human Resources at least two (2) work days notice prior to the return date. |
| | 17. Provides Human Resources a Medical Certification Form from the health care provider stating that the employee is able to return to work, if leave was taken for the employee's own serious illness or for pregnancy disability. |
| Human Resources | 18. Determines, in consultation with the Department Head or designee, and the City Attorney's Office if necessary, if any required Medical Certification Form releasing the employee back to work is sufficient under this policy and law. |
| | 19. Notifies the Department Head or designee of the date the employees is scheduled to return to duty. |

- Supervisor/Department Head
20. Prepares a Personnel Action Form (PAF) returning the employee to regular status.
 21. Reinstates the employee to their original assignment or an assignment substantially similar on the agreed upon date of return, unless the employee's assignment ceased to exist because of legitimate business reasons unrelated to the leave.

FAILURE TO RETURN

- Human Resources
22. Notifies the employee, the Department Head or designee, and the City Attorney's Office if the employee fails to return to work after expiration of an authorized leave and any extensions thereto.
- Department Head
23. In consultation with Human Resources and the City Attorney's Office, considers action pursuant to Personnel Policy.