

CHAPTER 22

Issue 4 07/18/2024

SUBJECT: LEAVES OF ABSENCES

I. PURPOSE

The purpose of this procedure is to establish guidelines governing leaves of absence. The procedure is also designed to ensure that leaves of absence are granted on a fair and equitable basis to all eligible employees. This procedure is applicable to medical leaves of absence for non-occupational disabilities, medical leaves for occupational disabilities, family and medical care leaves, personal leaves of absence, military leaves of absence, and voluntary unpaid furloughs.

II. SCOPE

This procedure is applicable to all full-time and part-time (non-temporary) employees. Where any section, subsection, sentence, clause, or phrase of this procedure is found inconsistent with either properly negotiated ratified memoranda of understanding or with any State or Federal law, the terms of such agreement or laws shall prevail. Exceptions to this procedure shall only be allowed when approved by the City Administrator. The family and medical care leave section may also be applicable to temporary employees who meet the eligibility criteria.

III. AMENDMENTS

This procedure may be amended by the City Manager.

IV. GENERAL GUIDELINES

A. Unpaid Status

Except where specifically provided otherwise, all leaves of absence are provided on an unpaid basis.

B. Requests

Requests must be submitted in writing on a "City of Lompoc Special Leave Request" form and are subject to the approval of the employee's department head, Human Resources Director, and the City Manager's approval. Extensions of leaves must be submitted in writing and approved in writing as described previously before the extended period of the leave begins.

Subject to any applicable legal restrictions, requests for leaves of absence will be considered on the basis of the employee's length of service, performance, responsibility level, the reason for the request, workload, and the City's ability

to obtain a satisfactory replacement during the time the employee would be away from work.

C. Authorization

In accordance with Personnel Rule X, Section 6, the City Manager may grant a permanent or probationary employee leave of absence without pay or seniority for a period not to exceed three months. Leaves in excess of three months must be approved by the City Council.

The City Manager delegates authority to department heads to approve leaves of absence for a period not to exceed five days.

D. Returning from Leave of Absence

When employees are placed on a leave of absence, an effort will be made to hold their position open for the period of the approved leave. However, the needs of the City may necessitate that the position be filled and it is not possible to guarantee reinstatement. If an employee's former position is not available when they are ready to return from an approved leave, every effort will be made to place the employee in a comparable position for which they are qualified. In addition, the City will attempt to reasonably accommodate employees who are released for partial or modified duty. An employee who does not accept a comparable position offered by the City will be considered to have voluntarily terminated employment, effective the day such refusal is made.

When an employee is placed on a leave of absence for an occupational disability, their position may be held open until the employee is released for duty or medical evidence indicates that the employee will be permanently unable to return to their position (see Section VI, B4).

E. Failure to Return Promptly

If an employee fails for any reason to return to work promptly upon the expiration of an approved leave of absence and has not obtained an extension prior to the extension date, the employee will be considered to have voluntarily resigned. However, such employees must be provided with appropriate pre-termination notice (Coleman v. Department of Personnel Administration).

F. Misrepresentations

Misrepresenting reasons for applying for a leave of absence may result in disciplinary action, up to and including termination.

G. Health Insurance

Employees must pay for the total premium cost of group health and dental, life, and long-term disability insurance for the period of their unpaid leave (except

where provided under the Family and Medical Leave Act or unless otherwise provided in a negotiated Memorandum of Understanding or Compensation Plan). Payments for these benefits will be required beginning the month following that of the month in which the leave was initiated. Employees must make arrangements with the Payroll Division for all necessary payments. Failure to arrange for payment during this period will result in the lapse of coverage as of the month following the commencement of the unpaid leave.

H. Accrual of Seniority and Benefits

Employees will cease to accrue all benefits, e.g. vacation, sick time, and holidays upon commencement of their unpaid leave of absence. No seniority will accrue during the time of the employee's unpaid leave of absence.

Employees returning from a leave of absence will be reinstated without loss of seniority earned prior to the commencement of their leave. Employees returning from a leave of absence will be given credit for the probationary period or any portion thereof completed prior to the commencement of the leave of absence. Once an initial probationary period is completed, employees returning from an approved leave of absence are not required to complete a second probationary period.

I. Holiday Benefits

If a paid holiday falls during the period an employee is on a leave of absence, the employee will not be eligible for the holiday pay.

VI. PROCEDURES APPLICABLE TO SPECIFIC TYPES OF LEAVE

A. Medical Leaves of Absence for Non-Occupational Disabilities

1. Criteria. Requests for a medical leave of absence may be submitted by any employee who is temporarily disabled and unable to work due to a personal injury or illness, including a pregnancy-related disability. Medical leave of absence may be granted for the period of the illness or disability, provided such period shall not exceed four months, except as otherwise required by law. Medical leave may be extended beyond four months if supported by proof of continued disability in the form of a physician's statement and if the leave will not result in undue hardship to the City.

2. Coordination of Benefits. An employee who is granted a medical leave of absence shall be entitled to utilize any accrued sick leave, ATO, or vacation benefits during the period of their disability. Health, dental, and other insurance benefits will be continued while on such paid status. Medical leave of absence will be coordinated with long-term disability benefits to minimize the impact of the leave of absence for both the employee and the City.

3. Notification Requirements. In addition to filing a fully completed "City of Lompoc Special Leave Request" form, it is required that the disabled employee provide a physician's certificate specifying the nature of the disability, the employee's inability to perform the duties of his position, and the expected duration of the disability.

Employees on medical leave are encouraged to provide periodic updates to the employee's supervisor, department head, or Human Resources concerning the employee's status, expected date of return, and continued intent to return to work upon expiration of the leave. Such employees shall provide immediate notification to their supervisor, department head, or Human Resources if there is a need to change the duration of the leave of absence.

If an employee desires a medical leave of absence for elective medical procedures, they must submit the request for leave at least two weeks prior to the date they wish such leave to begin.

4. Fitness for Duty. Before returning to work following a medical leave of absence, an employee may be requested to submit a physician's verification stating the employee's ability to return to their position and the date that they are able to return. In certain circumstances, the City may request a second medical opinion concerning the employee's ability to return to their regular position.

B. Medical Leaves of Absence for Occupational Disabilities

1. Criteria. A leave of absence shall be granted upon written request to any full-time or part-time employee who sustains a work-related disability. A leave of absence for a work-related disability shall be extended to the employee for the duration of the work-related disability subject to the limitations specified in Section B.4.
2. Coordination of Benefits. A leave of absence for a work-related disability will be coordinated with Worker's Compensation, long-term disability and any other benefits provided to the employee in an effort to minimize the impact of the leave of absence for both the employee and the City.

In accordance with Personnel Rule X, Section 3, an employee receiving temporary disability payments under the Worker's Compensation laws may use a pro-ration of accumulated sick leave in order to continue to maintain their regular income.

However, public safety employees receiving full salaries in lieu of temporary disability payments pursuant to section 4850 of the Labor Code are entitled to accumulate sick leave during such period of disability. Eligibility for City contribution towards such health, dental, and

other insurances will continue to the extent that sick leave and other paid benefits are utilized.

Employees on a leave of absence without pay due to a work-related injury or illness may have their health insurance premiums paid as specified in the Compensation Plan(s) or Memoranda of Understanding (MOU).

3. Notification Requirements. It is the employee's responsibility to provide a fully completed City of Lompoc Special Leave Request form as soon as they become aware of the need for the leave of absence. A physician's certificate verifying the nature of the disability, the employee's inability to perform the duties of their position and the anticipated duration of the disability is also required. The employee shall provide periodic updates to their supervisor, department head, or Human Resources at least every 30 days, or upon expiration of the leave, concerning the employee's status, expected date of return, and continued intent to return upon expiration of the leave. The employee shall immediately notify their supervisor, department head, or Human Resources of the need to change the duration of the leave of absence.
4. Fitness for Duty. Before returning to work following a leave of absence for a work-related disability, an employee may be requested to submit a physician's verification stating the employee's ability to return to their usual customary work and the date that they are able to return. In certain circumstances, the City may request a second medical opinion verifying the employee's ability to return to their previous position.

C. Family and Medical Leaves

1. Criteria. State and federal laws specifically provide for unpaid leave for family care reasons and the employee's various health conditions. These guidelines implement the federal Family and Medical Leave Act of 1993 (the "FMLA") and the California Family Rights Act of 1991 (as amended) (the "CFRA").
2. Reasons for Leave. Leave is permitted under these provisions because of:
 - (1) Birth of a child of an employee and the care for a newborn;
 - (2) Placement of child with an employee in connection with an adoption or foster care;
 - (3) To care for a child, parent, or a spouse who has a serious health condition;
 - (4) A serious health condition that makes the employee unable to perform the functions of his/her position.

(5) Under CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, parent-in-law, sibling, or any Designated Person, who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA.

(6) Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation;

(7) Under the CFRA only, leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s domestic partner is on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA; or

(8) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12- month period.

A serious health condition includes an illness, injury, impairment, or physical or mental condition that involves:

(1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits them to the facility with the expectation that they will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or;

(2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(a) Any period of incapacity requiring absence from work/regular activities for more than three calendar days;

(b) Any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

(3) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a "serious health condition" only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave.

(4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(a) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

(5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.

(6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days.

3. Eligible Employees. Full-time and part-time employees who have been employed for at least 12 months and who have worked at least 1,250 hours during the 12 months preceding the leave qualify for this leave.
4. Amount of Leave. Eligible employees are entitled to a total of 12 work weeks of leave during any 12-month period. The 12-month period will be measured forward from the first date leave is used. An employee's entitlement to leave for the birth or placement of a child for adoption expires 12 months after the birth or placement.

Under certain conditions, leave may be taken intermittently or on a reduced leave schedule. Such leave can be taken to care for a sick family member or for the employee's own serious health condition when medically necessary. The City may require the employee to transfer, temporarily, to an available alternate position for which the employee is qualified and has equivalent paid benefits; and better accommodates recurring periods of leave.

5. Coordination With Pregnancy Disability Leave. Female employees' rights to pregnancy disability leave under the Fair Employment Housing Act are not impacted by FMLA or CFRA. Such employees can take the maximum leaves provided by both laws and the leaves may run back-to-back. Therefore, female employees may be on leave for up to seven months consecutively in conjunction with pregnancy and birth of a child.
6. Coordination With Paid Leave. Employees who are eligible to use paid sick leave due to their serious health condition are required to utilize such leave for CFRA/PDL/FMLA purposes prior to using unpaid leave. The City may also require the use of paid vacation leave, accrued holiday day, or accumulated time off ("ATO") leave for other CFRA/PDL/FMLA circumstances prior to utilizing unpaid leave or voluntary furloughs. Paid leave will be credited against the employee's 12-week CFRA/FMLA entitlement. When paid leave is designated as CFRA/FMLA leave, the City will notify the employee that the paid leave will be counted as CFRA/FMLA leave.
7. Medical Insurance Entitlement. During any CFRA/PDL/FMLA leave, an employee's coverage under group medical plans will be continued under the same conditions as if the employee is actively at work. The City will continue to provide the employer share of contributions to premiums for health, dental, and employee assistance program ("EAP") benefits. Where current Memorandum of Understanding or Compensation Plan provides for greater benefits, those agreements will apply. Payments for medical insurance premiums are required at the same time as normal payroll deductions. If the employee chooses not to retain health coverage during CFRA/PDL/FMLA leave, when the employee returns from leave they are entitled to be reinstated to such coverage.

If an employee informs the City of their intent not to return from leave (including at the start of such leave), or if the employee fails to return from leave, or the employee exhausts their CFRA/PDL/FMLA entitlement, the City's obligation to maintain health benefits ceases. Such employees may be entitled to continuation benefits coverage ("COBRA") with no City contribution for up to 18 months of potential coverage. If the employee fails to return to work after the employee's CFRA/PDL/FMLA leave entitlement has been exhausted or expires, the City may recover its share of health plan premiums during the period of unpaid CFRA/PDL/FMLA leave, unless the employee does not return because of the continuation or onset of a serious health condition, or circumstances beyond the employee's control. An employee's desire to stay with a family member, even though the family no longer requires the employee's care, or a parent's decision to stay home with a newborn child and not return, does not qualify as circumstances beyond the employee's control.

8. Other Benefit Entitlements. Employees on family leave are entitled to participate in employee benefit plans (such as life, short-term and long-term disability, and retirement), to the same extent as would apply to other employees on any other unpaid leave granted by the City.
9. Status While On Family Leave. Employees shall retain "employee" status while on family and medical care leave. A leave does not constitute a break in service for purposes of longevity and/or seniority, under any collective bargaining agreement, or under any employee benefit plan. Thus, employees returning from leave shall return with no less seniority for purposes of layoff, recall, and seniority-related benefits, such as vacation. Employees will not, however, accrue seniority or vacation and sick leave during (unpaid) family care leave.
10. Medical Certification. Employees who request family leave will provide written certification from the health care provider of the individual requiring care. The medical certification that an employee is needed to care for a family member encompasses the serious health condition of the family member. If the CFRA/PDL/FMLA leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the position.

If leave is foreseeable, the employee must provide timely certification within 15 days after being requested. If an employee fails to provide certification, requested leave may be denied until provided. When leave is not foreseeable, the employee will be allowed 15 days to provide certification, or a reasonable time if necessary.

The City may require, at the City's expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning the information certified.

11. Notice. If the event necessitating the leave becomes known to the employee more than 30 calendar days prior to the employee's need for leave, the employee shall provide notice 30 days in advance at a minimum. If the event becomes known to the employee less than 30 calendar days prior to the need for leave, the employee shall provide, at a minimum, written notice of no more than five working days from learning of the need for leave, unless it is impractical. The City shall respond to a leave request as soon as possible and no later than 10 days after receiving the request.
12. Fitness for Duty. As a condition of restoration of an employee whose FMLA leave was due to the employee's own serious health condition, the City may request a physician's fitness for duty certification that the employee is able to resume their customary work. In certain circumstances, the City may request a second medical opinion verifying the employee's ability to return to their previous position.

D. Personal Leaves of Absence

1. Criteria. A personal leave of absence without pay may be granted for a reasonable period of time of up to thirty days. Requests for personal leaves of absence will be considered on the basis of the employee's length of service, performance, responsibility level, the reason for the request, and the City's ability to obtain a satisfactory replacement during the time the employee would be away from work. Personal leaves may be extended for a reasonable period of time due to special circumstances, as determined on an individual basis by the Human Resources Director and approved by the department head and the City Manager.
2. Status While on Leave. Employees on an unpaid personal leave of absence cease to accrue vacation and sick leave benefits and seniority at the commencement of their unpaid leave. Such an employee will be credited with all service prior to the commencement of their unpaid leave, but not for the period of the unpaid leave. In addition, employees may not utilize voluntary furloughs during their unpaid personal leave of absence.

E. Military Leave.

Military leave will be granted in accordance with federal and state law. An employee requesting leave for this purpose shall promptly provide the department head/Human Resources Director with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head/Human Resources Director may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

Requests. All requests for paid or unpaid military leave of absences must be submitted on a "City of Lompoc Special Leave Request" form accompanied by written verification from the appropriate military authority. Paid military leave requests may be approved by the department head with review by the Personnel Human Resources Director. Unpaid military leave shall follow the approval procedure for unpaid leave of absences. All military leave, whether paid or unpaid, shall be granted in accordance with the provisions of applicable laws.

In accordance with Personnel Rule X, Section 5, all employees entitled to military leave shall give the department head an opportunity within the limits of military regulations to determine when such leave shall be taken. The Personnel Human Resources Department office shall maintain current information on Veteran's Reemployment rights, and shall make such information available to employee's employees upon request.

Upon review of the request, the City will provide the employee with additional information regarding (1) the amount of leave; (2) whether the leave will be paid or unpaid; (3) reinstatement rights; and (4) rights to benefits during leave.

F. Voluntary Unpaid Furlough

The purpose of the Voluntary Furlough Program is to help reduce expenditures during challenging budget shortfalls, yet maintain critical City services.

The Voluntary Furlough Program ("VFP") is available to all budgeted, regular status employees, without loss of benefits or seniority, regardless of the funding sources for their position allocation. Agency/department heads are encouraged to participate in the VFP and shall determine/schedule participation based on the operational needs of their agency/department. The VFP is effective upon authorization by the City Manager and may be terminated at any time by the City Manager.

1. No form of salary compensation may be utilized (i.e., vacation, accumulated compensatory time ("ATO"), paid administrative leave, management leave, etc.) during the approved furlough period. Holidays shall be paid as usual. Additionally, for those employees working a modified work schedule (i.e., 9/80, 4/10, or 3/12), a "furlough day" may not be utilized on the employee's regularly scheduled **OFF** day.
2. If an employee is working a designated modified work schedule, furlough days will be charged in increments of 8, 9, 10, or 12-hours, depending on

the employee's designated work hours and in accordance with the approved modified work contract.

3. An employee may take up to five (5) "working" days of voluntary furlough in any pay period. **Furloughs in excess of 30 calendar days must be approved by the City Manager.**
4. The City shall continue to pay the City's portion of City-provided benefits (i.e., health, dental, and life insurance). The City will continue to make pro-rata CalPERS contributions (Employer and Employee portions) on behalf of the employee, as long as there are reportable earnings.
5. Employee-paid payroll deductions shall continue to be deducted from the employee's paycheck, provided there are sufficient funds. If there are insufficient funds for the employee-paid deductions, it shall be the employee's responsibility to make arrangements to pay the employee's portion of benefits and/or other payroll deductions. This includes, but is not limited to, health, dental, Long-Term Disability (LTD), optional insurance premiums, deferred compensation, credit union, bonds, union dues, court-ordered payments, etc.
6. There shall be no loss of employee's seniority with the City, department, or the job classification. There is no break in service.
7. All eligible benefits (i.e., vacation, sick leave, etc.) shall accrue as if the employee were working their normal designated work schedule.
8. Employees must request the furlough through their supervisor using the appropriate form. The requested furlough days must be approved by the department head. The department head may accept or reject a request for furlough after considering the employee's position, seniority and the operational needs of the department.
9. Fair Labor Standards Act (FLSA) exempt employees will lose their FLSA exempt designation during the week(s) in which the furlough occurs and pay is reduced. These exempt employees shall follow the same overtime policies as non-exempt employees during the furlough period. Exempt employees may only work overtime with prior authorization from their supervisor.
10. Taking unpaid furlough should not result in the need for any other employee to work overtime.

Eligibility

This program is available to all regular City employees who have completed at least two full pay periods of employment who request to participate, subject to approval by their agency/department heads. Seasonal, temporary, or other non-budgeted employees are not eligible to participate in this program.

Participating employees must be in a paid status at the time of enrollment and on the workday prior to first taking time off. Participating employees must also ensure that they have adequate wages to cover their normal payroll deductions and the contributed benefit amounts, if applicable.

Employees must submit a **Voluntary Furlough Request Form** to Human Resources for approval.

AUTHORIZED _____
City Manager

Effective Date

**CITY OF LOMPOC
VOLUNTARY FURLOUGH REQUEST FORM
Reduction in Work Hours Without Pay**

The City Manager has initiated a Voluntary Furlough ("VFP") Program. Attached is a copy of the Personnel Procedure Manual section dealing with furloughs. If you wish to participate, please indicate how many days you wish to be on unpaid furlough and your first and second choices of dates.

EMPLOYEE NAME: _____

JOB TITLE: _____

DATE(S) / 1st CHOICE: _____

DATE(S) / 2nd CHOICE: _____

I have read and understood the policy for voluntary furlough and I make this request on my own free will. I also understand that any benefit or payroll deduction that is in effect at the time of the furlough will be deducted from my check (if any) or I will make arrangements with Payroll and Personnel to make those payments.

Employee's Signature: _____

Date: _____

SUPERVISOR'S NAME (PRINT)

SIGNATURE

Date: _____

Department Head: Accept: Reject:

DEPARTMENT HEAD'S NAME (PRINT)

SIGNATURE

Date: _____

***CITY MANAGER APPROVAL IS REQUIRED FOR FURLOUGHS IN EXCESS OF 30 CALENDAR DAYS.**

City Manager: Accept: Reject:

SIGNATURE

Date: _____