



ADMINISTRATIVE DIRECTIVE

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October 1, 2014		

I. **PURPOSE**

To set forth the City's policy on Medical Leave and Parental Leave available to permanent and probationary employees for the serious health condition of an employee or employee's immediate family member.

II. **POLICY**

A. Medical Leave and Parental Leave provide protected, unpaid leave for City employees to care for themselves or their immediate family members. These leaves are available to employees who have exhausted their Family Medical Leave (FML) and/or are not FML-eligible. Medical Leave and Parental Leave run concurrent with all other leaves, including FML, and may only be used on a continuous basis. Medical Leave may be approved for a period of up to 12 months, provided the result of the absence from work, and/or the failure to perform the essential functions of the classification to which the employee is permanently assigned, does not exceed 12 months.

Medical Leaves will initially be approved by Human Resources for up to six (6) months, after which the decision to allow additional leave, up to 12 months, is subject to approval by Human Resources in consultation with the employee's appointing authority.

B. Medical Leave and Parental Leave can be used for the following reasons:

1. A serious health condition rendering the employee unable to perform their job.
2. In order for the employee to care for an immediate family member who has a serious health condition.
3. The birth of the employee's child and in order to care for such child, or for a child placed with the employee for adoption or foster care. Leave for this reason must be taken within the initial 12-month period following the child's birth or placement with the employee.

III. **DEFINITIONS**

A. Continuous Leave – For purposes of this A.D., qualifying leave of more than the equivalent of two (2) consecutive workweeks.

B. Domestic Partnership – An unmarried couple who share a relationship of caring and commitment, who are not related by blood closer than would bar marriage in the State of Arizona; are not married to another person in a marriage expressly recognized by the State of Arizona or in any domestic partnership and/or civil union with another person; are both 18 years or older; are both competent to enter into a contract; both declare that they are each other's sole domestic partner; and both currently share a



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primary residence, are in a relationship of mutual support, and declare that they intend to remain in such for the indefinite future.

- C. Human Resources** – For purposes of this A.D., Human Resources refers to the City Human Resources Department, not an individual department's HR sections or divisions.
- D. Immediate Family Member** – A spouse, child, or parent, as defined by the Family & Medical Leave Act (FMLA). A child includes a son or daughter who is biological, adopted or foster child, a step child, a legal ward, or a child of a person standing in loco parentis, either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care.
- E. Medical Necessity for Leave** – A medical need for the leave, as distinguished from voluntary treatments and procedures. Medical need for leave is determined by the information provided on the Certification of Health Care Provider form.
- F. Serious Health Condition** – An illness, injury, impairment, or other physical or mental condition that involves inpatient care or continuing treatment by a healthcare provider.

IV. PROVISIONS

- A.** Medical Leave for illness, injury, pregnancy, childbirth, or related medical conditions may be given to permanent and probationary employees for a period of time as defined by the nature of the medical condition, not to exceed 12 months, unless the employee qualifies for Extended Medical Leave under Section X of this A.D. This does not imply that employees are entitled to 12 months of Medical Leave.
- B.** Employees serving their initial probation will be eligible for one day of Medical Leave equivalent to the number of workdays they have been employed. For example, employees who have been employed for three (3) months would be eligible for up to three (3) months of Medical Leave (Probationary employee's Parental Leave entitlement is addressed in Section VIII).
- C.** Leave may be approved in increments not to exceed 60 days, unless a longer period is approved at the beginning of the Medical Leave, due to the nature of the serious health condition.
- D.** Use of Medical Leave requires the completion of a Certification of Health Care Provider form, which can be obtained from the Human Resources Department.



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V. REQUEST FOR MEDICAL LEAVE

- A. An employee who has exhausted their FML, or is ineligible to use FML, may request to use Medical Leave.
- B. The employee will be required to complete a Certification of Health Care Provider form, completed and signed by the employee's (or immediate family member's) healthcare provider, indicating the need for leave. Employees will be given 15 calendar days to provide medical certification.
- C. Failure to submit a completed Certification of Health Care Provider form will result in the denial of Medical Leave, and the employee's department may designate the leave as Absent Without Leave (AWOL).

VI. MEDICAL LEAVE PERIOD

- A. Once Medical Leave is approved, employees must first exhaust all of their paid leave, including, but not limited to: Sick Leave, Vacation Leave, Compensatory Time, Floating/Birthday Holiday, and Personal Leave. Once an employee has exhausted their paid leave, they will be placed on Leave Without Pay (LWOP).
- B. Employees on approved Medical Leave, who have exhausted their paid leave, may request Donated Leave. Requests must be submitted to Human Resources (A.D. 2.01-7E, Donated Leave). City Court employees must contact City Court HR for all matters involving Medical and Parental Leave.
- C. Employees on Medical Leave Without Pay that extends for more than the equivalent of two consecutive workweeks will not accrue additional leave, and supplemental pay/allowances will be suspended and/or prorated, including, but not limited to:
 - 1. Certification Pays
 - 2. Certified Bilingual Pay
 - 3. Downtown Parking Allowance
 - 4. Educational Incentive Pay (Fire Inspectors only)
 - 5. Equipment and/or Uniform Allowance
 - 6. Executive Vehicle Allowance
 - 7. Insurance Allowance for Commissioned Fire personnel (HSKA1)
 - 8. Second Language Pay



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- D. Medical Leave will be reviewed at 60-day intervals, unless a shorter/longer leave period is approved at the beginning of the leave.

VII. RETURN TO WORK

This section applies to all Medical Leaves except Military Family Leave (MFL). For information on MFL, see A.D. 2.01-7G, Military Leave.

- A. If an employee is off for their own serious health condition, they must provide documentation in order to return to work:

1. If off work for more than the equivalent of one workweek, the employee must submit a Healthcare Provider Note, completed by their healthcare provider.
2. If off work for more than the equivalent of two consecutive workweeks, the employee must submit a Work Status Verification form, completed by their healthcare provider.
3. If off work more than 30 calendar days, the employee must submit a Work Status Verification form, completed by their healthcare provider AND they must have clearance from the City Physician prior to reporting to work (exception: following uncomplicated childbirth).
4. Employees who have sustained a back (neck, mid-back, lower-back) or eye injury/illness/condition, on or off the job, and who have lost one (1) or more full workdays as a result, will be required to be examined by a City Physician prior to returning to work.
5. Employees placed on Light Duty status (restricted or limited duty) by their own healthcare provider may be required to be examined by a City Physician prior to returning to work.

B. Reinstatement Rights After Medical Leave:

1. An employee returning from Medical Leave will be entitled to reinstatement in the same classification held at the time the leave was granted.
2. A vacancy created by Medical Leave will be regarded as temporary, and will not be filled by a permanent appointment prior to the expiration date of the leave, unless the employee on leave is transferred to another position, or is determined by a healthcare provider to be permanently, medically unable to perform the essential functions of the position, with or without reasonable accommodation.



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C. Employee Options if Unable to Return to Work in Primary Job Assignment

When it is determined by a healthcare provider that an employee on Medical Leave is unable to return to work in their primary job assignment, and there is no expectation that the employee will return in a reasonable period of time, the employee will be advised by Human Resources regarding their options under the Americans with Disabilities Act (ADA), Long-Term Disability benefits, and medical disability retirement (if applicable). Civil Service Rules govern reassignment rights for an employee affected in this manner.

D. Expiration of Medical Leave

If an employee on Medical Leave has not returned to work and is not been involved in the reasonable accommodation process at the end of the one-year Medical Leave, the department will discharge the employee in accordance with the Civil Service Rules and Regulations, unless the employee qualifies for Extended Medical Leave under Section X of this A.D. In this case, the employee will be discharged at the expiration of the Extended Medical Leave period, as set forth in Section X.

VIII. PARENTAL LEAVE

The following Parental Leave provisions are applicable for both FML-eligible permanent employees and those who are not otherwise eligible for FML, including employees who are serving their initial probationary period. Parental Leave will run concurrent with FML and/or Medical Leave.

- A.** An employee is required to use paid leave, including, but not limited to: Sick Leave, Vacation Leave, Compensatory Time, Floating/Birthday Holiday, and Personal Leave, whenever they are absent from work for parental purposes. The employee's appointing authority has discretion to approve an employee request to adjust hours or flex time worked within a workweek for medical appointments related to Parental Leave. Leave Without Pay will not be approved if the employee has paid leave available for use.
- B.** Employees serving their initial probation who are ineligible for FML, or permanent employees who have exhausted all or part of their 12 weeks of FML prior to the birth or adoption of a child, may request up to 12 weeks of leave to bond with the child, for adjustment, and to arrange for child care.
- C.** An employee who is pregnant must use all paid leave and Donated Leave before Long-Term Disability will be available (see Employee Insurance Handbook).



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D. Leave for Complications Due to Pregnancy or Childbirth

1. Notwithstanding the provisions under FMLA, permanent and probationary employees may be approved for additional Medical Leave Without Pay for periods not to exceed one (1) year (2,080 hours for full-time employees/2,912 hours for Fire Suppression Personnel; and prorated for part-time employees) when a healthcare provider certifies that the employee is physically and/or emotionally unable to perform normal duties as a result of complications due to pregnancy, childbirth, or related medical conditions.
2. All Medical Leaves apply toward the employee's eligibility to use up to one (1) year of leave.
3. An employee may not return to work from Leave Without Pay due to any of these conditions until a healthcare provider (and the City Physician, if off work more than 30 days, paid or unpaid) completes the Work Status Verification form stating that the employee is physically and/or emotionally able to perform the essential functions of their job, with or without reasonable accommodation.

IX. EFFECTS ON BENEFITS

See A.D. 2.01-7, Employee Leaves, for complete information regarding the use of Medical/Parental Leave, Family Medical Leave, and Military Leave, and their effects on employee benefits.

Employees on unpaid leave for more than one-half (1/2) of a pay period are not entitled to leave accruals.

X. EXTENDED MEDICAL LEAVE

An employee on Medical Leave who has not returned to work, and is not involved in the reasonable accommodation process at the end of the one-year Medical Leave period, may be approved for Extended Medical Leave, not to exceed an additional 12 months, by the Human Resources Director/Designee, under the following conditions:

- A. **Employee who has a Petition for Medical Disability Retirement Pending with TSRS or PSPRS** – An employee who has a petition for medical disability retirement pending with either the Tucson Supplemental Retirement System or Public Safety Personnel Retirement System offices when the employee's original Medical Leave has expired, will be approved for Extended Medical Leave until a determination is made by the appropriate retirement board. Employee requests to postpone a scheduled hearing on the medical retirement petition will result in immediate expiration of the Extended Medical Leave. Denial of the application for medical retirement will result in immediate expiration of the Extended Medical Leave.



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- B. Employee with Medical Certification of Terminal Illness** – An employee, who provides a Certification of Health Care Provider form verifying that the employee has a terminal illness and is not expected to return to employment, will be approved for up to 12 months of Extended Medical Leave beyond the expiration of the employee’s original year of Medical Leave.

- C. Employees with Documentation of Hospice Eligibility** – An employee who provides documentation of hospice eligibility from a hospice service provider will be approved for up to 12 months of Extended Medical Leave beyond the expiration of the employee’s original year of Medical Leave.

Employees qualifying for Extended Medical Leave under subsections A, B, or C above are not expected to return to employment with the City. Therefore, the employee’s position may be filled on a permanent basis when the employee is approved for Extended Medical Leave.

Reemployment rights are set forth in the Civil Service Rules. Employees seeking reemployment following Extended Medical Leave must be medically released to return by both the employee’s treating healthcare provider and the City Physician prior to being considered for a vacant position.

Appendices All forms may be obtained through the Human Resources Department.

References (for a complete list of references for the entire AD Leaves series, please see AD 2.01-7)

- 2.01-7 Employee Leaves
- 2.01-7B Sick Leave
- 2.01-7C Family and Medical Leave
- 2.01-7E Donated Leave
- 2.05-2 Reasonable Accommodation of Disabled Applicants and Employees
- Civil Services Rules and Regulations
- Employee and Retiree Insurance Handbook

Review Responsibility and Frequency The Human Resources Director will review this directive as needed.

Authorized



 City Manager

10-13-14

 Date