

# City of Richmond

## Administrative Policy Manual

**SUBJECT:** Family, Medical, and Pregnancy Leave

**SECTION:** Human Resources Department

**POLICY NUMBER:** AP 315

**INITIAL DATE PREPARED:** December 3, 2024

**LAST DATE REVISED:** April 2, 2025

### I. Purpose

To define the City of Richmond’s policy and procedure with regard to family, medical, military caregiver, and pregnancy disability leave in accordance with State and Federal laws including Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and pregnancy disability leave provisions of the California Fair Employment and Housing Act (FEHA).

### II. Definitions

**CFRA:** The California Family Rights Act. The California-specific law that provides certain employees with up to twelve (12) weeks of unpaid, job-protected leave per year.

**Child:**

1. Under the FMLA, “child” means a child under the age of 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, and includes a biological, adopted, foster or step-child. A child is “incapable of self-care” if they require active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
2. Under the CFRA, “child” means a child, including a child who is 18 years of age or older who is capable of self-care. An employee’s child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

**Covered Active Duty:** (1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or (2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

**Covered Service Member:** (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment,

recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

**Designated Person:** means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.

**Domestic Partner:** is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

**Family member:** (1) for FMLA leave means an employee's child, parent, and spouse; (2) for CFRA leave means an employee's child, parent, parent-in-law, spouse, domestic partner, grandchild, grandparent, and sibling.

**FMLA:** The Family and Medical Leave Act. The federal law that provides certain employees with up to 12 weeks of unpaid, job-protected leave per year.

**Grandchild:** means a child of the employee's child.

**Grandparent:** means a parent of the employee's parent.

**Health Care Provider:** means any of the following:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
2. An individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
3. A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

4. A nurse practitioner or nurse-midwife or a clinical social worker who is authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
5. A Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
6. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

**Military Caregiver Leave:** Leave related to a seriously injured or ill servicemember or veteran under the FMLA/CFRA.

**Next of Kin of a Covered Service Member:** means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.

**Outpatient Status:** means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**Parent:** means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

**Parent-in-law:** means the parent of a spouse or domestic partner of the employee.

**PDL:** Pregnancy Disability Leave. California protected leave for employees disabled by pregnancy, childbirth, or a related medical condition.

**Qualifying Exigency:** Leave related to the deployment of a military member under FMLA/CFRA.

**Serious Health Condition:** means 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. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
  - 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 consecutive calendar days in the absence of medical intervention or treatment.

**Serious Injury or Illness:** (1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered service member incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (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) and that manifested itself before or after the member became a veteran.

**Sibling:** means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.

**Spouse:** means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined.

**Single Rolling 12-Month Period:** means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. Also known as the rolling backward method, each time an employee takes FMLA leave, the remaining leave entitlement is any balance of the 12 weeks which has not been used during the previous 12-Month Period.

### III. Policy

The City provides family and medical care leave (including military caregiver and pregnancy disability leave) for eligible employees as required by federal and state law.

Employees who misuse or abuse these leaves may be disciplined, up to and including termination. Employees who fraudulently obtain or use CFRA/FMLA/PDL are not protected by those laws' job restoration or maintenance of health benefits provisions.

#### **IV. Eligibility and Entitlement**

##### **A. Family and Medical Leave**

Eligible employees are entitled to an unpaid FMLA/CFRA leave of absence of up to twelve (12) work weeks in a single rolling 12-month period, for one (1) or more of the following reasons:

1. Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of their position;
2. The birth of the employee's child or to care for the employee's newborn;
3. The placement of a child with an employee in connection with the adoption or foster care of a child. Foster care must be by a formal agreement between the foster parent and the State, County, or licensed foster care placement agency;
4. Leave to care for a child, parent, or spouse who has a serious health condition;
  - a. CFRA expands this leave to permit 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;
5. 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;
  - a. CFRA expands this leave to employee's domestic partner who 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.

An employee is eligible for FMLA/CFRA leave if the employee has been employed by the City for at least twelve (12) months; **and** the employee has been employed by the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

##### **B. Military Caregiver Leave**

Military caregiver leave is covered by FMLA. Eligible employees who are the spouse, son, daughter, parent, or "next of kin" of a covered service member of the U.S. Armed

Forces shall be entitled to a combined total of twenty-six (26) weeks of unpaid leave to care for the servicemember who has a serious injury or illness: incurred in the line of duty while on active military duty; or that 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 twenty-six (26) weeks of unpaid leave during a single 12-month period. If 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.

The first twelve (12) weeks may run concurrently with CFRA if the family member is covered under both CFRA and FMLA.

### **C. Pregnancy Disability Leave**

All employees, regardless of the length of service, are entitled to take an unpaid Pregnancy Disability Leave (PDL) of up to four (4) months during the period of time that their health care provider determines they are actually disabled by pregnancy, childbirth or a related medical condition. PDL may be taken before and after birth during any period of time the employee is physically unable to work because of the pregnancy or pregnancy-related condition. This includes time off needed for prenatal or postnatal care, severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, childbirth, recovery from childbirth, loss or end of pregnancy, or any other related medical condition.

PDL may be used up to the number of hours the employee would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time employee who works 37.5 hours per week, "four months" means 650 hours of leave entitlement, based on 37.5 hour per week times 17 1/3 weeks. An employee who works less than full-time will receive a pro rata or proportional amount of leave.

PDL may be taken consecutively or intermittently. All leave taken in connection with a specific pregnancy counts toward computing the four-month period. PDL may be modified as an employee's changing medical condition dictates.

[An employee affected by pregnancy, childbirth, or related medical condition may request a reasonable accommodation (for example, an adjustment or change to the work environment). Refer to AP 316 for information on reasonable accommodations.]

### **D. Child Bonding**

While PDL provides protected leave to eligible employees disabled by pregnancy, the CFRA separately provides protected leave to eligible employees to bond with a new child. CFRA provides eligible employees up to twelve (12) weeks within one (1) year of

the child's birth, adoption, or start of foster care for child bonding. Both parents are entitled to bonding leave.

If both married parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave:

1. The aggregate number of workweeks of FMLA leave to which both may be entitled may be limited to twelve (12) workweeks during any 12-month period; and
2. Each married parent is entitled to take twelve (12) workweeks of CFRA leave during any 12-month period.

As outlined in the applicable Memorandum of Understanding, all full-time employees granted a leave of absence as described above, shall receive four (4) weeks of paid parental leave.

### **Intermittent Leave or Reduced Leave Schedule**

If an employee requests to use leave intermittently (a few days or hours at a time) or on a reduced leave schedule for their own serious health condition or to care for an immediate family member with serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The City may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

#### **V. Minimum Duration of Leave**

- A. Birth, Adoption, Foster care Placement of Child: If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one (1) year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two (2) weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for less than two (2) weeks duration on any two (2) occasions.
- B. Serious Health Condition: If leave is requested to care for a child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild, sibling or the employee themselves with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this policy is required.

#### **VI. Compensation and Use of Concurrent Paid and Other Leaves**

Leave under FMLA, CFRA, and PDL are unpaid. In addition to any paid leaves provided under an applicable Memorandum of Understanding, employees must use all paid accrued leaves concurrently with family and medical care leaves as described below.

**A. Use of Accrued Paid Leave**

To remain in paid status, an employee who has been granted leave under this policy must concurrently use and exhaust all available and accrued paid leave in the following order:

- Employee's own serious health condition: First sick leave, then vacation leave, then any and all other accrued paid time off.
- Serious health condition of a family member: Employee may elect to use sick leave. If an employee does not elect to use sick leave, the employee *must* use vacation leave, followed by any and all other accrued paid time off other than sick leave.
- Birth of a child, to care for the newborn child, and/or for placement with the employee of a son or daughter for adoption or foster care: First vacation leave, then any and all other accrued paid time off other than sick leave. Thereafter, the employee may elect to use sick leave.
- Qualifying Exigency: Vacation leave, then any and all other accrued paid time off other than sick leave.
- Caring for a covered service member: Employee may elect to use sick leave. If employee does not elect to use sick leave, the employee *must* use vacation leave, followed by any and all other accrued paid time off other than sick leave.
- Pregnancy Disability: First sick leave must be used and exhausted. Thereafter, the employee may elect to use vacation leave or any other accrued paid time off.

Exception: Employees are not required to use accrued paid time off during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit.

Any leave used under this policy, where paid leave is also concurrently used, shall count toward the cap on leave entitlements.

If an employee requests to utilize accrued vacation leave or accrued paid time off without reference to a FMLA/CFRA/PDL qualifying purpose, the City may not ask the employee if the leave is for a qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a

FMLA/CFRA/PDL qualifying purpose, the City may require the employee to exhaust accrued leave as described above.

**B. Paid vs. Unpaid Leave**

An employee on paid leave will continue to accrue sick leave and vacation leave at their normal rate. An employee on unpaid leave will not accrue leave.

**C. Concurrent Leaves**

Unless otherwise provided by law, if an employee takes a leave of absence for any purpose which also qualifies under the FMLA and CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA and/or CFRA leave entitlement. The only exception is for peace officers and firefighters who are on paid industrial injury leave.

Military: FMLA leave taken due to a qualifying exigency will not run concurrently with leave under the CFRA. However, military caregiver leave taken to care for a family member or next of kin who is a covered service member will run concurrently with leave under the CFRA, unless the covered service member is a next of kin that is not considered a family member under the CFRA.

Pregnancy: FMLA will run concurrently with PDL. CFRA will not run concurrently with PDL.

Temporary Disability: A leave of absence taken pursuant to Workers' Compensation Law or a temporary disability benefit plan (State 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. FMLA leave does not run concurrent with leave taken for peace officers and firefighters under Labor Code Section 4850.

**VII. Benefits While on Leave**

Whether the employee uses accruals to remain in paid status or is on unpaid leave pursuant to the leaves in this policy, the City will continue to provide any group health insurance coverage that was provided to the employee before the leave, under the same terms and conditions as if the employee continued actively working during the period for up to twelve (12) weeks for FMLA/CFRA leave (up to 26 weeks for military caregiver leave).

If the employee is disabled by pregnancy, coverage will continue up to four (4) months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the City will maintain their coverage while they are disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12

weeks). For a full-time employee who works 37.5 hours per week, “four months” means 650 hours of leave entitlement, based on 37.5 hour per week times 17 1/3 weeks. An employee who works less than full-time will receive a pro rata or proportional amount of leave.

The employee will continue to be responsible for the employee share of medical coverage, if applicable. Failure to do so may result in loss of coverage. The City will cease to maintain the employee’s health coverage if an employee’s premium payment is more than thirty (30) days late. The City will notify the employee fifteen (15) days before coverage will cease. The employee is responsible for all health care coverage costs for absences or time away from work exceeding the leave entitlements of this policy.

While on unpaid leave pursuant to this policy, employees will continue to be covered by the City’s benefits plans that are not part of its group health plan (e.g., life, short-term, or long-term disability insurance, retirement and pension plans) for up to twelve (12) weeks each leave year to the same extent that coverage is provided while the employee is on the job.

If the employee fails to return to work after their leave entitlement has been exhausted or expires, the City will have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, reoccurrence, or onset of a serious health condition of the employee or their family member which would entitle the employee to leave, or because of circumstances beyond the employee’s control.

Seniority: An employee retains employee status during any leave, herein, and is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. An employee’s hire date and service date will not be adjusted as a result of leave authorized pursuant to this policy. The review date for performance and step/merit increases shall be subject to adjustment based on the applicable Memorandum of Understanding.

Union Dues: The employee is responsible for maintaining dues to the applicable employee association, if required.

## **VIII. Procedure for Requesting/Granting Leave**

### **A. Notification**

An employee is responsible to request family, medical, or pregnancy disability leave.

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days’ notice is required. In addition, if an employee knows that they will need leave in the future but

does not know the exact day(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform their supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

If thirty (30) days' advance notice is not possible due to a change in circumstances or a medical emergency, notice must be given as soon as practicable.

### **B. Application and Certification**

An employee requesting leave must complete a Request for Leave Application and return it to Human Resources at least thirty (30) days before the leave begins, when possible. 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 (2) business days after leave has commenced.

The Human Resources Department will send an eligibility notice to the employee within five (5) working days of receipt of the employee's request for family, medical, or pregnancy disability leave or within (5) working days of acquiring knowledge of the need for such leave. Once the eligibility notice is received, the employee must submit proper medical certification to the Human Resources Department before the leave begins in the case of a foreseeable event. In the case of an unforeseeable event, proper medical certification as described below must be submitted to Human Resources within fifteen (15) calendar days of receipt of eligibility notice. Failure of the employee to provide timely or incomplete medical certification may defer or even disqualify requests for FMLA leave.

Birth of a Child or Placement with Employee for Adoption or Foster Care: An application for leave for the birth, adoption, or foster care placement of a child must be accompanied by a birth certificate or other appropriate documentation.

Employee's Own Serious Health Condition: An application for leave based on an employee's own serious health condition must be accompanied by a Medical Certification Form completed by the applicable health care provider containing all of the following:

1. The date, if known, when the serious health condition commenced;
2. The probable duration of the condition; and
3. A statement that the employee is unable to work at all or is unable to perform any one or more of the essential functions of their position due to the condition.

Upon expiration of the time period the health care provider originally estimated that he employee needed for their own serious health condition, the employee must obtain recertification if additional leave is request.

Family Member Serious Health Condition: An application for leave based on the need to care for a family member (as defined) who has a serious health condition must be accompanied by a written certification from the health care provider of the family member requiring care that contains all of the following:

1. The date, if known, when the serious health condition commenced;
2. The probable duration of the condition;
3. An estimated amount of time that the health care provider believes the employee needs to care for the family member; and
4. A statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the family member.<sup>1</sup>

Upon expiration of the period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

Service Member Serious Injury or Illness: An application for FMLA leave to care for a covered service member who is a child, spouse, parent, or “next of kin” of the employee must be accompanied by written certification from a health care provider regarding the injured service member’s serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.

Qualifying Exigency: The first time an employee requests leave because of a qualifying exigency, the employee must provide their immediate supervisor with military orders, or other appropriate documentation issued by the military that indicates that the military member is on covered active duty or call to active-duty status in a foreign country, and the dates of the military member’s active-duty status. A copy of the new active-duty orders or similar documentation will be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active-duty status of the same or a different military member. The City will verify the certification as permitted by the FMLA and CFRA regulations.

Pregnancy Disability: An application for leave due to pregnancy disability must be accompanied by written certification from the attending physician stating:

1. The employee is disabled from working by pregnancy, childbirth, or a related medical condition;

---

<sup>1</sup> The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort and arranging third-party care for the covered family member, as well as directly providing or participating in the medical care.

2. The date when the employee became disable by pregnancy, childbirth, or related medical condition; and
3. The estimated duration or end date of the leave.

All medical information provided by the employee 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 or medical leave or pregnancy disability 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. If necessary, any leave already taken may be retroactively designated as family and medical leave, pregnancy disability leave, or military caregiver leave. Human Resources shall process the leave request in consultation with the employee's supervisor and, if necessary, with the Department Head. Employees who take intermittent leave should make a reasonable effort to schedule such treatment to minimize disruption to the workplace.

**IX. Director of Human Resources' Review of an Employee's Medical Certification for Employee's Own Serious Health Condition**

An employee must provide a medical certification for their own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or nonresponsive. If the certification is incomplete or insufficient, the Director of Human Resources or designee will give the employee written notice of the deficiencies and seven (7) days to cure, unless a longer period is necessary considering the employee's diligent, good faith efforts to address the deficiencies.

After giving the employee an opportunity to cure any deficiencies, the Director of Human Resources or designee may contact the health care provider who provided the certification to clarify or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the provider who signed the form. "Clarification" means contacting the provider to understand the handwriting on the certification or to understand the meaning of the response. The Director of Human Resources or designee may not ask for additional information beyond that which is required on the certification form.

If the City has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the

City and the employee but paid for by the City. The opinion of the third provider will be binding. The City must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

**X. Return to Work and Reinstatement**

- A. **Periodic Reporting:** Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
- B. **Release:** Upon completion of leave due to the employee's own serious health condition or because of pregnancy disability, the employee must provide the City with a written notice from the health care provider releasing the employee to return to work. Failure to provide such certification will result in denial of reinstatement.
- C. **Return to Work:** An employee on leave is expected to return to work on the next workday following the last day of the approved leave period.
- D. **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date they return to work. If the return-to-work date differs from the original agreement, or if no agreement was made, the City must reinstate the employee within two (2) business days of being given notice that the employee intends to return, or as soon as reasonably possible thereafter to expedite the employee's return to work.
- E. **Reinstatement to Same or Equivalent Position:** Upon return, the employee will be reinstated to their original position, so long as it was not eliminated for a legitimate business reason during the employee's leave. If the employee's original position is no longer available, the employee will be assigned to an equivalent, open position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA/PDL period.
- F. **Reinstatement of "Key Employees":** Under the FMLA only, the City may deny reinstatement to a "key" employee (e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the City may not deny reinstatement to a "key" employee during or upon the expiration of CFRA leave.

City of Richmond

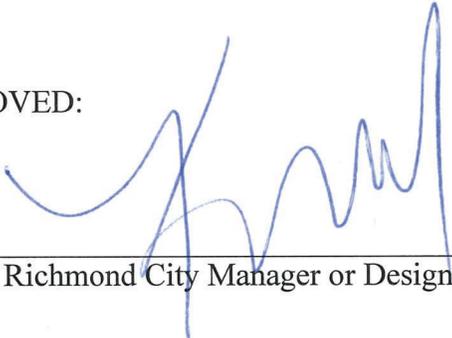
**Administrative Policy Manual** Family, Medical, and Pregnancy Leave

G. Disability: If upon return from leave an employee is unable to perform the essential functions of their job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation that will allow the employee to perform the essential functions of their job, in accordance with policy.

**XI. Additional Leave**

Employees who desire leave over and beyond family, medical, military caregiver, and pregnancy disability leave as defined in this policy may request leave of absence with pay using accrued leave, or leave of absence without pay, in accordance with the applicable Memorandum of Understanding.

APPROVED:



\_\_\_\_\_  
City of Richmond City Manager or Designee

4/2/25

\_\_\_\_\_  
Date