



## **FAMILY AND MEDICAL LEAVE (FMLA) POLICY**

*For the purpose of policy interpretation, Mcmillan Memorial Library employees are considered both employees of the Library as well as employees of the City of Wisconsin Rapids. Policy wording may include either references to "City" employees or "Library" employees, both of which apply if approved by the McMillan Memorial Library Board.*

**Purpose:** To explain FMLA to employees.

Child rearing, family illness / injury, employee medical leave, military covered active duty or call-to-covered active-duty and military caregiver leave are available to employees as specified below. The intent of this Policy is to comply with both the Wisconsin and federal Family and Medical Leave Acts. Should this policy conflict in any way with the applicable federal and state statutes or regulations, the statutes, or regulations shall control.

### **I. Eligibility**

**Federal--**To be eligible for the federal leave discussed below, the employee must have worked for the City for any twelve (12) months during the past seven (7) years and has actually worked at least one thousand two hundred fifty (1,250) hours in the last twelve (12) month period.

**Wisconsin--**Employees who have been employed by the City for one (1) year (52 consecutive weeks at any time during employment) and who have been paid for one thousand (1,000) hours (including paid time not worked such as holidays, vacation or sick leave) during the preceding fifty two (52) weeks are eligible for the leaves provided under Wisconsin law. This policy assumes that an employee is eligible for both federal and state leaves. This may not always be the case.

### **II. Length of Leave**

The federal Family and Medical Leave Law provides a combined total of twelve (12) weeks of family and medical leave for various purposes described below in a calendar year and an additional fourteen (14) weeks of military caregiver leave as described below. (An employee is eligible for military caregiver leave for up to twenty-six (26) weeks, but it is limited by any FMLA leave taken for other qualifying reasons). Wisconsin law provides six (6) weeks of child-rearing leave, two (2) weeks of family illness/injury leave, and two (2) weeks of employee medical leave in a calendar year. Wisconsin, federal, and City leaves provided for the same purposes run concurrently; that is, they do not "stack." If the leave is a City provided leave, plus federal and state FMLA leave as well, the leaves run concurrently. For example, an absence for a work or non- work related illness or injury that qualifies as employee sick leave is also deducted from an employee's FMLA leave entitlements under the state and federal laws if the medical condition qualifies as a "serious health condition" under those laws.

### **III. Notice of Eligibility for and Designation of FMLA Leave**

Employees requesting FMLA leave are entitled to receive written notice from the City Human Resources Manager or designee, telling them whether they are eligible for FMLA leave and, if

not eligible, the reasons why they are not eligible. When eligible for FMLA leave, employees are entitled to receive written notice of: (1) their rights and responsibilities in connection with such leave; (2) the City's designation of leave as FMLA qualifying or non-qualifying, and if not FMLA qualifying, the reasons why; and (3) the amount of leave, if known, that will be counted against the employee's leave entitlement.

#### **IV. Employee FMLA Leave Obligations**

Employees who take FMLA leave must timely notify the City Human Resources Manager or designee of their need for FMLA leave. Employees should request FMLA leave in writing whenever possible. The following describes the content and timing of such employee notices.

1. Content of Employee Notice. To trigger FMLA leave protections, employees must inform the City Human Resources Manager or designee of the need for FMLA qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA leave specifically, or explaining the reasons for leave so as to allow the City Human Resources Manager or designee to determine that the leave is FMLA qualifying. For example, employees might explain that: A specific medical condition renders them unable to perform the functions of their job; They or a covered family member are under the continuing care of a healthcare provider for a specific medical condition; A specific medical condition renders the family member unable to perform daily activities or that the family member is a covered servicemember with a serious injury or illness incurred in the line of duty; They are pregnant or have been hospitalized overnight; or The leave is due to a qualifying exigency caused by a covered military member being on covered active duty or called to covered active duty. Calling in "sick," without providing the reasons for the needed leave, will NOT be considered sufficient notice for Federal FMLA leave. Employees must respond to the City's Human Resources Manager or designee's questions to determine if absences are potentially FMLA qualifying. If an employee fails to explain the reasons for FMLA leave, the leave may be denied. When an employee seeks leave due to FMLA-qualifying reasons for which the City Human Resources Manager or designee has previously provided FMLA-protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA leave.

2. Timing of Employee Notice. Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, or the approximate timing of the need for leave is not foreseeable, employees must provide the City Human Resources Manager or designee with notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Employees who fail to give 30 days notice for foreseeable leave, without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

#### **V. Childbirth / Adoption Leave**

##### A. Purpose:

Unpaid child rearing leave may normally be used within sixteen (16) weeks prior to, or within twelve (12) months following:

1. The birth of the employee's natural child; or

2. The placement of a child with the employee for adoption or as a precondition to adoption under section 48.90(2) of the Wisconsin Statutes, but not both; or
3. The placement of a child with the employee for twenty-four (24) hour foster care that is made by or with agreement of a government agency.

#### B. Length of Child Rearing Leave:

No employee may take more than twelve (12) weeks of federal child rearing leave in a twelve (12) month period. In addition, no more than twelve (12) weeks leave can be taken for the birth of any one child. If both parents of a child are employed by the City, and they both desire child rearing leave, they are generally only entitled to a combined total leave of twelve (12) weeks. Child-rearing leave provided under federal law runs concurrently with the six (6) weeks of child-rearing leave provided under Wisconsin law.

#### C. Intermittent / Partial Leave Absences:

For the first six (6) weeks of leave within sixteen (16) weeks prior to or after the childrearing event (e.g., birth of child), an employee may take child rearing leave as an intermittent or as a partial absence from employment in increments of less than their full normal work day. An employee who does so shall schedule the intermittent or partial absence so it does not unduly disrupt the Library's operations. To comply with this requirement, an employee is to provide the Library Director, in writing, with the employee's proposed schedule of intermittent or partial absences no less than one (1) week before the schedule of absences is to commence. The schedule must be of a sufficient definiteness that the City is able to schedule replacement employees, if necessary, to cover the absences. Partial or intermittent leave must commence within sixteen (16) weeks before or after the birth, adoption, or foster placement of a child. Leave cannot be taken intermittently or as a partial absence before or beyond sixteen (16) weeks of the event. Rather, any remaining child-rearing leave must be taken in a single block and would not be eligible for sick leave substitution.

#### D. Scheduling Child Rearing Leave:

An employee is expected to submit a written request for child rearing leave no less than thirty (30) calendar days before the leave is to commence and must schedule the leave after reasonably considering the City's needs. If the date of the birth, adoption, or foster care placement requires leave to begin sooner, the employee shall provide notice to the Human Resources Manager or designee as soon as practicable.

### **VI. Family Illness Leave**

#### A. Purpose:

Unpaid family illness / injury leave may be used to care for the employee's spouse, child, parents, or spouse's parent (i.e., parent-in-law) and domestic partner who have a serious health condition.

#### B. Length of Family Illness Leave:

No employee may take more than twelve (12) weeks of federal family illness leave for the employee's spouse, child, or parents in a twelve (12) month period. The federal leave generally runs concurrently with the two (2) weeks of family illness leave provided under state law in a calendar year. Under state law a maximum of two (2) weeks of family illness leave may be taken for a spouse's parent (i.e., a parent-in-law) and domestic partner in a calendar year, in addition to the twelve (12) weeks of federal FMLA leave.

## **VII. Employee Medical Leave**

### A. Purpose:

Unpaid medical leave may be used by an employee who has a serious health condition which renders the employee unable to perform their job duties.

### B. Length of Medical Leave:

No employee may take more than twelve (12) weeks of federal employee medical leave in a twelve (12) month period. This leave generally runs concurrently with the two (2) weeks of employee medical leave provided under state law in a calendar year.

## **VIII. Military Call to Duty Leave**

### A. Purpose:

Federal unpaid call-to-duty leave may be used as a result of a qualifying exigency arising from an employee's spouse, child or parent being on active duty or having been notified of an impending call or order to active duty status in the Regular Armed Forces, National Guard or Reserves. Qualifying exigencies may include attending certain military events, arranging for alternative child-care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

### B. Length of Leave:

An eligible employee is entitled to twelve (12) weeks of call-to-duty leave in a twelve (12) month period. The twelve (12) weeks provided for this purpose do not add to the employee's normal twelve (12) weeks of FMLA entitlement in a twelve (12) month period. In essence, they provide another reason for FMLA.

## **IX. Injured / Ill Servicemember Caregiver Leave**

### A. Purpose:

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember is entitled to take up 26 weeks of military caregiver leave during a single 12-month period to care for the servicemember with a serious injury or illness incurred in the line of duty, or for a veteran with a serious injury or illness, including conditions that do not arise until after the veteran has left the military. The veteran must have been discharged within the five year period before the eligible employee first takes FMLA military caregiver leave to care for the veteran. A "covered servicemember" means a member of the Armed Forces, including a member of the Regular Armed Forces, National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary retired list, for a

serious injury or illness. A member of the Armed Forces would have a serious injury or illness if they had , incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that the injury or illness renders the servicemember medically unfit to perform duties of the member's office, grade, rank or rating. Additionally included are serious injuries or illnesses that result from a condition that existed before the service member's active duty service and was aggravated by service in the line of duty on active duty. "Next of kin" of a covered servicemember means the nearest blood relative other than the covered service member's spouse, parent, child, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions; siblings ; 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. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered. The covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

#### B. Length of Leave:

Leave to care for a servicemember shall only be available during a single 12-month period and, when combined with other FMLAqualifying leave, may not exceed 26 weeks during the single 12-month period. For purposes of military caregiver leave, the single 12-month period begins on the first day an eligible employee takes leave to care for the injured servicemember. A separate caregiver leave can be taken for each covered servicemember and / or for each new injury / illness.

### **X. Scheduling Family Illness/Employee Medical/and Military Caregiver Leave**

#### A. Medical Necessity:

An employee may schedule family illness / injury, employee medical, or military caregiver leave as medically necessary. An employee must consider the needs of the Library when scheduling leave. When medically necessary, an employee may take the leave as an intermittent or as a partial absence from employment in increments of less than their full normal work day. The lowest increment may be the lowest increment that the City permits for any other type of leave, paid or unpaid. An employee who does so shall schedule the intermittent or partial absence so it does not unduly disrupt the Library's operations. To comply with this requirement, an employee is to provide the City Human Resources Manager or designee, in writing, with the employee's proposed schedule of partial absences as soon as possible after the employee learns of the probable necessity of such leave.

#### B. Planned Treatment:

When planning medical treatment, employees must consult with the Library and make a reasonable effort to schedule treatment so as not to unduly disrupt the Library's operations, subject to the approval of the health care provider. Employees should consult with the City prior to the scheduling of treatment to work out a treatment schedule that best suits the needs of both the City and the employee, subject to the approval of the health care provider. If an employee providing notice of the need to take FMLA leave on an intermittent basis for planned medical

treatment neglects to fulfill this obligation, the City may require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

### C. Intermittent/Reduced Schedule Leave:

When employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, employees must, upon request, advise the City of the reason why such leave is medically necessary. In such instances, the City Human Resources Manager or designee and employee shall attempt to work out a leave schedule that meets the employee's needs without unduly disrupting the Library's operations, subject to the approval of the health care provider.

## **XI. Serious Health Condition/Medical Certification Supporting Need for Leave**

### A. Submission of Certifications:

Depending on the nature of FMLA leave sought, employees may be required to submit medical certifications establishing that a "serious health condition" (described below) is involved and supporting their need for FMLA leave. As described below, there generally are three types of FMLA medical certifications: an initial certification, a recertification, and a return to work/fitness for duty certification. It is the employee's responsibility to provide the City Human Resources Manager or designee with timely, complete and sufficient medical certifications. Whenever the City requests an employee to provide a FMLA medical certification, the employee must provide the requested certification within 15 calendar days after the City's request, unless it is not practicable to do so despite the employee's diligent, good faith, efforts. The City Human Resources Manager or designee shall inform the employee if a submitted medical certification is incomplete or insufficient and provide the employee with at least seven calendar days to cure deficiencies. The City Human Resources Manager may deny FMLA leave to an employee who fails to timely cure deficiencies or otherwise fails to timely submit requested medical certifications. With the employee's permission, the City Human Resources Manager (through individuals other than an employee's direct supervisor) may contact the employee's health care provider to authenticate or clarify medical certifications. If an employee chooses not to provide the City with authorization allowing it to clarify or authenticate a certification with a health care provider, the City Human Resources Manager may deny FMLA leave if the certification is unclear and a serious health condition cannot be verified. Whenever the City Human Resources Manager or designee deems it appropriate to do so, it may waive its right to receive timely, complete and / or sufficient FMLA medical certifications.

### B. Types of Certifications.

1. Initial Medical Certifications. Employees requesting leave because of their own, or a covered relative's, serious health condition, or to care for a covered service member, must supply a medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member within fifteen (15) days. If an employee provides at least 30 days notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year. A "serious health condition" is considered to be a disabling physical or mental illness, injury, impairment, or condition involving any of the following: 1. Inpatient care in a hospital, nursing home, hospice, or residential medical facility; or 2. Outpatient care that requires continuing treatment or supervision

by a health care provider. The federal FMLA leave includes a more detailed and expansive definition of a "serious health condition" described in the medical certification form, which is provided to an employee if the employee is required to submit a medical certification form from their physician, certifying that a "serious health condition" within the meaning of law is involved. If the City Human Resources Manager has reason to doubt an initial medical certification, they may require an employee to obtain a second opinion at the City's expense. If the opinions of the initial and second health care providers differ, the City may, at its expense, require an employee to obtain a third, final and binding, certification from a health care provider designated or approved jointly by the City Human Resources Manager or designee and the employee.

2. Medical Recertifications. Depending on the circumstances and duration of FMLA leave, the City may require an employee to provide a recertification of a medical condition giving rise to the need for leave. The City Human Resources Manager or designee will notify the employee if recertification is required and will give the employee at least 15 calendar days to provide medical recertification.

3. Return to Work/Fitness for Duty Medical Certifications. An employee returning to work from FMLA leave that was taken because of the employee's own serious health condition that made the employee unable to perform their job duties must provide the City with a medical certification confirming the employee is able to return to work and the employee's ability to perform the essential functions of the employee's position. The City may delay and/or deny job restoration until an employee provides a requested return to work/fitness-for-duty certification.

#### C. Certifications Supporting Need for Military Family Leave.

Upon request, the first time an employee seeks leave due to a qualifying exigency arising out of the covered active duty or call to covered active duty status of a covered military member, the City may require the employee to provide: (1) a copy of the covered military member's active duty orders or other documentation issued by the military indicating the covered military member is on active duty or called to active duty status and the dates of the covered military member's active duty service; and (2) a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. An employee shall provide a copy of new active duty orders or other documentation issued by the military for qualifying exigency leaves arising out of a different active duty or call to active duty status of the same or a different covered military member. When leave is taken to care for a covered service member with a serious injury or illness, the City may require the employee to obtain certifications completed by an authorized health care provider of the covered service member. In addition, the City may request that the certification submitted by the employee set forth additional information provided by the employee and/or the covered service member confirming entitlement to such leave.

## **XII. Using Paid Leave While on Unpaid FMLA Leave**

Wisconsin FMLA - While on Wisconsin FMLA leave (including when running concurrently with federal FMLA leave), an employee may elect to use any accrued City provided paid time while taking unpaid FMLA leave.

Federal FMLA - When solely utilizing federal FMLA leave, an employee may elect, or the City require, an employee to utilize certain accrued City provided paid leave while on FMLA leave.

For example, an employee may elect, or the City may require, the use of accrued paid vacation while on any type of FMLA leave. The employee may elect, or the City may require, the use of accrued sick leave while the employee is on FMLA employee medical leave. However, an employee's use of City provided paid leave must comply with the terms and conditions of the City's paid leave policy. The employee should notify the City Human Resources Manager or designee if and what type of paid accrued leave the employee intends to substitute as provided under the law. The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave - the paid time runs concurrently with an employee's FMLA entitlement. Leaves of absence taken in connection with a paid or unpaid disability leave plan or worker's compensation injury/illness run concurrently with any FMLA leave entitlement. Upon written request, the City Human Resources Manager or designee may allow employees to use accrued paid time to supplement any paid disability or worker's compensation benefits.

### **XIII. Insurance and Benefits.**

#### **A. Payment of Premiums.**

While an employee is on FMLA leave, the city will maintain group health insurance coverage under the conditions that applied before the leave began. If prior to the leave, the employee was required to participate in the premium payments, the employee is required to continue with payment of their share of the premiums while on leave. An employee's failure to make the required payments may result in termination of the employee's insurance coverage. Unless the City Human Resources Manager or designee notifies employees of other arrangements, whenever employees are receiving pay from the City during FMLA leave, the City will deduct the employee portion of the group health plan premium from the employee's paycheck in the same manner as if the employee was actively working. If FMLA leave is unpaid, employees must pay their portion of the group health premium through a method determined by the City.

#### **B. Termination of Benefits.**

The City's obligation to maintain health benefits will stop if and when: (1) an employee informs the City of intent not to return to work at the end of the leave period; (2) the employee fails to return to work when the leave entitlement is used up; or (3) the employee fails to make any required payments while on leave after appropriate waiting periods and time periods as specified by law. The City's obligation to maintain health care coverage ceases if an employee's premium payment is more than 30 days late. If an employee's payment is more than 15 days late, the City will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date.

#### **C. Recovery of Premium Payments.**

If the City chooses to do so, it may pay an employee's required premium payments while the employee is on leave. If the City does so and an employee does not immediately repay the City upon the employee's return to work, the City will deduct the amount of the payments from the employee's paycheck. Also, the City has the right to collect from an employee the health insurance premiums the City paid during a period of unpaid leave if the employee does not return to work after the leave entitlement has been exhausted or expired. Such premium amounts may be deducted from any compensation owed to the employee upon termination of employment. An employee must return to work for at least thirty (30) calendar days in order to be considered to have "returned" to work. However, an employee's liability to repay health



insurance premiums does not apply if their failure to return to work is due to a serious health condition or specific circumstances beyond the control of the employee.

#### **XIV. Return From Leave**

An employee returning from family and/or medical leave can return to their old position, if vacant, at the time the employee returns to work. If the position is no longer vacant, the employee may be offered an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. The determination as to how an employee is to be restored to "an equivalent position" upon return from FMLA leave is made on the basis of established policies and practices, and provisions of the federal FMLA.

#### **XV. Outside Employment**

An employee who is solely utilizing federal FMLA leave (i.e. Wisconsin FMLA leave has been exhausted) is prohibited from working for another employer while on federal FMLA leave.

#### **XVI. Workers Compensation**

Absences due to work-related injuries are subject to the Federal FMLA if the FMLA requirements are met, even if state worker's compensation leaves also apply. In other words, Federal FMLA and worker's compensation leave will run concurrently.

#### **XVII. Holiday Pay**

For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. If an employee is using intermittent FMLA leave, the holiday will count as FMLA leave only if the employee was otherwise scheduled to work on the holiday.

Employees should contact the HR Department if they have any questions regarding this policy. All FMLA leave is subject to the approval of the Human Resources Manager, or their designee.

Adopted by the McMillan Memorial Library Board of Trustees, April 17, 2024.