

808.25 SUBJECT: POLICY – LEAVE OF ABSENCE

:1 OBJECTIVE:

To provide a policy for the processing of employee Leave of Absence (exclusive of Military Leave) requests and the replacement of employees on extended periods of leave for all City of Orlando permanent or contract employees unless otherwise specified by a collective bargaining agreement.

:2 AUTHORITY:

This procedure amended by City Council, October 5, 2009, Item A4.

:3 DIRECTION:

Human Resources Division Manager, is an appointed official, and receives direction through the Chief Administrative Officer or designee.

:4 METHOD OF OPERATION:

A. Definitions

1. **Family Leave** – A period of up to a maximum of twelve (12) work weeks during any twelve (12) month period which may consist of paid and/or unpaid leave that can be used for:
 - a) Birth of a child.
 - b) Placement of an adopted or foster child.
 - c) Serious illness or injury of the employee such that the employee is unable to perform the functions of the job.
 - d) Care of a child, spouse or parent with a serious or disabling health condition **or any other condition consistent with statutory requirements.**
 - e) Qualifying exigency – when employee’s spouse, child or parent is on active duty or is notified of an impending order to active duty.
2. **Family Leave – Military Illness/Injury Recuperation** – A period up to twenty six (26) weeks of leave during one (1) twelve (12)-month period to care for a spouse, child, parent or next of kin who is a service member undergoing medical treatment, recuperation or therapy, is on out-patient status, or is on the temporary disabled retired list for a serious injury or illness.
3. **Qualifying Exigency** – is defined as:
 - a) Short-notice deployment
 - b) Military events and related activities
 - c) Child care and school activities
 - d) Financial and legal arrangements
 - e) Counseling (rest and recuperation)
 - f) Post-deployment activities and

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- g) Additional activities where the employer and employee agree to leave.
4. **City Employee** – Full-time and part-time employees assigned to permanent or contract positions (excluding temporaries/seasonals) who have completed six (6) months employment.
 5. **Serious Health Condition** – An illness, injury or impairment, physical or mental condition that involves significant medical care.
 - a) An illness or injury that involves an overnight stay in a hospital, hospice or residential medical care facility, including any subsequent treatment thereof, or
 - b) Illness or injury that causes more than three (3) calendar days of incapacity **plus** two (2) or more treatments by a health care provider, or
 - c) Illness or injury that causes more than three (3) calendar days of incapacity **plus** involves at least two (2) treatments by a health care provider **and** a regimen of continuing treatment under a health care provider's supervision for chronic serious health conditions, twice per year or
 - d) **Any period if incapacity** due to pregnancy/prenatal care, **or** a chronic serious health condition or a permanent **or** long-term serious health condition, **or** to receive medical treatment for restorative surgery or a condition that will likely result in a period of incapacity of more than three (3) days.
 - e) Serious health conditions usually do **NOT** include routine physical examinations, eye examinations, dental examinations, flu, a cold or headache, ear aches, upset stomachs, or minor ulcers as well as cosmetic treatments (such as for acne or plastic surgery).
 6. **Child** – A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (a person charged with a parent's rights, duties, and responsibilities) who is:
 - a) Under eighteen (18) years of age; or
 - b) Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.
 7. **Spouse** – Husband or wife, as the case may be.
 8. **Parent** – A biological parent or an individual who stood in loco parentis to the employee when the employee was a child.
 9. **Domestic Violence Leave** – A period of up to three (3) days during any twelve (12) month period which may consist of paid and/or unpaid leave that can be used for:
 - a) Seeking an injunction against domestic violence.
 - b) Obtaining medical care or mental health counseling for the victim of domestic violence.
 - c) Obtaining services from a victim-services organization.
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- d) Making the employee's home secure from or to escape from the perpetrator of the domestic violence.
- e) Seeking legal assistance or attending court proceedings related to the domestic violence.

B. Leave of Absence for Family Leave Purposes

1. A maximum of twelve (12) work weeks of combined leave, whether paid, unpaid or any combination thereof (accrued leave or unpaid Family Leave), may be taken within a twelve (12) month period. (Exception: Employees applying for Long-Term Disability LTD. See Section C.3 of this Policy.) The granted amount of Family Leave will be measured by "rolling back" (twelve) (12) months from the first day of the requested Family Leave. All Sick Leave, Management Time, Personal and Vacation Leave, if eligible as provided for under Policy and Procedures 808.16-Sick Leave, and 808.15-Personal Leave must be taken as Family Leave before Family Leave without pay can be requested.
2. Requests for Family Leave should be made at least thirty (30) days in advance, if possible. Only in unforeseen circumstances should less than thirty (30) days notice be given for Family Leave requests. The supervisor may require appropriate documentation for which the leave is needed when utilized for military active duty activation.
3. When requesting Family Leave for medical reasons for the employee, spouse, child or parent, medical certification from a health care provider will be required. The medical certification must be submitted for Family Leave and state:
 - a) Date which the serious health condition commenced.
 - b) Anticipated duration of the condition.
 - c) Appropriate medical facts about the condition.
 - d) Statement that the employee is needed to care for the child, spouse or parent and an estimate of how long care will be required.
 - e) In case of employee's serious health condition, a statement that the employee is unable to perform the functions of the job.

The medical certification should normally be a "Certification of Health Care Provider" form. This form must be completed by the employee's health care provider, and submitted to the employee's immediate supervisor.

The immediate supervisor will review the Certification of Health Care Provider Form and forward it to the Labor Relations Section to determine whether or not the requested leave is a Family and Medical Leave Act (FMLA) qualifying event. Department should not keep a copy of this form. The employee's immediate supervisor will be notified by Labor Relations within five (5) days of the determination. If the leave is FMLA qualifying the anticipated return to work date for the employee will be indicated. The employee's supervisor should then notify the employee in writing within five

(5) days that the leave is approved, and that it will be considered FMLA qualified leave.

After Labor Relations notifies the immediate supervisor of the determination, the employee's Division office will send a copy of the approved memo to Labor Relations within three (3) days in a sealed, confidential envelope, where it will then be forwarded for inclusion in the employee's medical file maintained by the City's Occupational Health Care Provider.

If the employee is not available or able to submit the form personally due to an emergency, the department should obtain a Certification of Health Care Provider Form and mail it to the employee with instructions to have it signed and returned to the immediate supervisor within fifteen (15) calendar days of receipt of the form. It is the employee's responsibility to see that the Health Care Provider has completed the form sufficiently to answer appropriate questions. Forms lacking required information will be returned to the employee for completion.

4. Employees must request Family Leave (FMLA) at least thirty (30) days in advance, if possible, by completing the "Leave Request Form 808.1" (Revised 12/95). If an employee is taking Personal Leave, Sick Leave, Vacation Leave, etc. for Family Leave (FMLA) purposes, the Personal Sick/Vacation etc. lines should be checked on the Leave Request form and the word "family" checked underneath the appropriate category.
5. If an employee indicates that he/she is taking Personal Leave, Sick Leave, Vacation or Management Leave for FMLA purposes, it should be listed/recorded as "Family Leave" also. It is not the employee's choice as to whether or not the leave is charged to FMLA. If the requested leave is for FMLA purposes it must be recorded as such and the employee must be notified.
6. Absences on Workers Compensation for a work week or more, for a serious health condition are chargeable to the Family Leave (FMLA) entitlement, and should be recorded as such on the payroll.
7. Divisions should respond in writing within **five (5)** working days to requests for, or knowledge of use of, leave for FMLA purposes. Employees should be notified, in writing, that the leave will be counted towards their yearly FMLA twelve (12) week entitlement. If an employee is absent from work and it is determined that the absence is an FMLA qualifying event, the leave already taken should be designated as FMLA and the employee must be notified in writing.
8. If the employees' Family Leave will include leave of absence without pay, they must be directed in writing to go to the Employee Benefits Section, of the Human Resources Division, 7th Floor, City Hall to assure continuance or receipt for appropriate benefits.
9. Any time off (paid and/or unpaid) for Family Leave (FMLA) purposes should be recorded as such in the employee's time record and reported weekly or bi-weekly to Payroll.

10. When considering a request for Family Leave for medical purposes for the employee, the City reserves the right to select another health care provider to render a second medical opinion at the City's expense, and if the two (2) options conflict, a third medical opinion, again at the City's expense. The third opinion shall be final and binding on the employee and the City. Subsequent re-certifications may be required on a reasonable basis at the City's discretion.
 11. As an alternative to twelve (12) consecutive work weeks of Family Leave (FMLA), a City employee may request an intermittent or reduced leave schedule for the serious medical condition of the employee or the employee's spouse, child or parent if medically necessary. An employee working fewer hours or taking occasional days off to accommodate his/her medical condition or that of a spouse, child or parent may, at the discretion of the City, be temporarily transferred to an alternate position should one be available that has equivalent pay and benefits and accommodates recurring period of leave better than the employee's regular position.
 12. Employees who need leave for planned medical treatments are required to make reasonable efforts to schedule treatment so it does not unduly disrupt operations at the employee's worksite.
 13. Health care benefits provided by the City will continue in effect while employees are on Family Leave (FMLA). If on Family Leave (FMLA) without pay, the employee will be responsible for continuing to make monthly contributions, if any, which are normally made by payroll deduction. If the employee does not return to work after a Family Leave (FMLA) of absence without pay, the City will collect from the employee any health benefit contribution paid by the City during that period. Collection will be made unless the failure to return to work is attributable to other circumstances beyond the employee's control. This determination will be made solely by the City. Medical documentation from the employee may be required at the discretion of the City.
 14. Personal, Vacation and Sick Leave accruals, longevity and service time may be affected by Family Leave (FMLA) without pay, in accordance with existing policy. Pension contribution requirements and adjusted dates of hire affecting leave accruals, longevity and service time, will be as set forth in this policy in Paragraph :4D.4.
 15. Upon completion of Family Leave (FMLA), the employee will be returned to the same job or an equivalent position with equivalent pay and benefits.
- C. Leave of Absence for Domestic Violence Purposes
1. A guaranteed maximum three (3) days of combined leave, whether paid, unpaid or any combination thereof may be taken within a twelve (12) month period. Utilization of paid Personal Leave or Sick Leave must be in accordance with applicable policy or bargaining agreement. The twelve (12)-month period will be computed by "rolling back" twelve (12) months from the first day of the requested Domestic Violence Leave.
 2. All Sick Leave, Management time, Personal and Vacation Leave, if eligible as provided for under Policy and Procedures 808.16-Sick Leave, 808.15-Personal

Leave or applicable bargaining agreement must be taken for Domestic Violence leave purposes before Domestic Violence leave *without* pay may be requested/taken.

3. Except for cases of imminent danger, the employee must provide their Supervisor with advanced notice of the need for Domestic Violence Leave in accordance with their appropriate work area, Division, Departmental leave notice policies.
4. The Supervisor may require appropriate documentation of the act of domestic violence for which the leave is needed.
5. Information regarding the need for Domestic Violence Leave and the circumstances/documentation regarding such leave must be kept confidential by the Supervisor/Department. All documentation regarding Domestic Violence Leave must be forwarded to Labor Relations for retention purposes.
6. Domestic Violence Leave may be used by the employee if the employee, or a member of the employee's family or household, is the victim of domestic violence. The leave is limited to the following activities:
 - a) Seeking an injunction for protection against domestic violence or repeat violence, dating violence, or sexual violence.
 - b) Obtaining medical care or mental health counseling or both for the employee or a family or household member to address injuries resulting from domestic violence.
 - c) Obtaining services from victims services organizations such as a domestic violence shelter or rape crisis center.
 - d) Making the employee's home secure from the perpetrator of domestic violence or finding a new home to escape the perpetrator.
 - e) Seeking legal assistance to address issues arising from domestic violence or attending or preparing for court related proceedings arising from the act of domestic violence.

D. Other Excused Leaves of Absence Without Pay

1. General

- a) It is the policy of the City to discourage the granting of excused absences without pay for other than Family and Domestic Violence Leave purposes. However, for good cause shown, excused absence without pay may be granted to an employee if the overall operation of the department is not adversely affected and if all accrued Vacation Time, Personal Leave, Compensatory Time, and Management Leave Time, as may be applicable, has been used.
- b) This policy shall not apply to Leave of Absence granted under Policy and Procedure Sections 808.18(1), 808.30, or any other Leave of Absence required by law.
- c) Leave of Absence shall not be granted for the purpose of taking other employment or for the purpose of entering self-employment. Any

employee engaging in such employment during Leave of Absence without pay shall be terminated.

2. Authority to Grant Leave of Absence Without Pay

Leave of Absence without pay may be granted as follows:

- a) An Office Director/Division Manager is authorized to grant an absence of up to fifteen (15) working days per twelve (12)-month period for good cause. Time may be granted one day at a time or consecutively. Denial of Leave of Absence by the Office Director/Division Manager may be appealed to the Department Director, or the Chief Administrator's Office as appropriate.
- b) For good cause shown, the Department Director, upon the recommendation of the Office Director/Division Manager, is authorized to grant up to thirty (30) additional working days per twelve (12)-month period. Denial of Leave of Absence by the Department Director may be appealed in writing to the Human Resources Division Manager or designee, which decision shall be final. The total amount of time which may be granted shall not exceed forty-five (45) working days per twelve (12)-month period.
- c) Leave of Absence in excess of forty-five (45) working days shall be submitted by the Department Director to the Chief Administrative Officer for consideration. The Chief Administrative Officer, for good cause shown, may grant additional days of Leave of Absence without pay.

3. Leave of Absence when Requesting Long-Term Disability

Employees who have applied for Long-Term Disability for a non job-related illness or injury may be placed on Leave of Absence until an initial LTD eligibility determination has been made by the LTD Committee. Time off for a job-related illness or injury will be covered by Workers' Compensation as provided by State law.

- a) This special Leave of Absence/Long-Term Disability status (LOA/LTD) is to be used only if and when all other paid leaves and Family Leave (FMLA) have been exhausted.
- b) Total leave, including Family Leave, should not normally exceed a period of four (4) months from the date of the disabling condition, including all paid leaves and LOA/LTD. The amount of an employee's accrued leave balance and the nature of his/her injury or illness will be taken into account.
- c) Employees placed on LOA/LTD should be coded FMLOA in the payroll timekeeping system.
- d) If not approved for Long-Term Disability, the employee shall be offered the same or an equivalent position if he/she is willing and able to return to work.

4. Leave of Absence When on Short Term Disability

All accrued vacation time, personal leave, sick leave, compensatory time, management leave time and floater holidays, with the exception of an eighty (80)-hour Personal Leave/Vacation balance, must be used before Short Term Disability benefits become payable. An employee may elect to use all or a portion of the eighty (80)-hour balance before Short Term Disability becomes payable.

If a Leave of Absence without pay of more than ten (10) consecutive working days has been approved, a Personnel Transaction Form will be forwarded by the Department to the Human Resources Division, reflecting the date the Leave of Absence begins and the date it is scheduled to end. The Leave of Absence without pay shall be coded as LOA/STD on the Personnel Transaction Form.

E. Provisions of Leave of Absence

1. All requests for Leave of Absence without pay must be submitted in writing along with appropriate Request Form and shall state the reason for the employee's request and the estimated length of the proposed excused absence. (See Section :4B. for Family Leave of Absence request requirements.)
2. When an employee is placed in a Leave of Absence without pay status for more than ten (10) consecutive working days, the employee will not accrue Personal Leave, Sick or annual Leave, nor will the employee be eligible for holiday pay during the period of excused absence.
3. If a Leave of Absence without pay of more than ten (10) consecutive working days has been approved, a Personnel Transaction Form will be forwarded by the Department to the Human Resources Division reflecting the date the Leave of Absence begins and the date it is scheduled to end. When the employee returns from a Leave of Absence, forward a Personnel Transaction Form reflecting the date returned.
4. If an employee misses a Longevity payment while on Leave of Absence without pay, the payment will be made upon request after the employee returns to work.
5. All leaves of absence without pay shall be recorded in the payroll timekeeping system, with appropriate comments attached, as "LOA", or, "FMLOA" (Family, LTD or STD) in accordance with applicable policies and procedures.

Office Directors/Division Managers are responsible for maintaining records, verifying compliance with this procedure, and monitoring its application.

An employee who, for an accumulated one hundred eighty (180) calendar days in a continuous twelve (12) month-period, has been unable to perform the essential functions of his/her assigned position (whether on leave, restricted duty, or otherwise), will be required to return to full duty or be terminated. Requests for exceptions to this policy may be submitted to the Human Resources Division Manager or designee through the applicable Department Director prior to expiration of the one hundred eighty (180) days. The amount of an employee's accrued level balance and the nature of the injury or illness will be taken into account. Medical evidence of ability to return to work within a reasonable amount of time will be required. This subsection shall not apply

to Civil Service employees who shall be governed by Orlando Police Department/Orlando Fire Department policies and procedures.

6. Leave of Absence affects Pension Service Credit as follows:
 - a) An employee participating in the General Employee Defined Benefit Retirement Plan and placed in an excused absence without pay status in excess of eighty (80) cumulative hours per calendar year, may maintain the period of absence as credited service as long as the employee pays the Defined Benefit Retirement Plan all participant contributions that would have been deducted from earnings during the period of time the employee was on Leave of Absence. Total service credited under this section shall not exceed six (6) months. Excused absence without pay for less than eighty (80) hours per fiscal year shall not affect the employee's service date.
 - b) If the employee does not pay the required contribution to the Defined Benefit Retirement Plan by April 30th following any fiscal year in which any period of Leave of Absence without pay occurred, then their length of service will be adjusted by deducting the time spent in a non-pay status (see Policy & Procedure 808.25).
 - c) An employee participating in the General Employee Defined Contribution Retirement Plan [401(a)] shall not be credited with service for any period of unpaid absence from work. Length of service will be adjusted by deducting the time spent in a non-pay status.
 - d) Notwithstanding the above, any employee furloughed for budget purposes for a period of forty (40) hours or less shall not lose service time for pension purposes, but will be treated as though on a Leave of Absence with pay. For pension calculation purposes in any defined benefit plan, the employee will be credited with earnings for the furloughed period at the employee's then current hourly rate. For employees in the defined contribution plan, the City will make the same contribution it would otherwise have made for the affected period of work had no furlough occurred.
7. Replacement of employees who are on a Leave of Absence may be made by one (1) or more of the following options:
 - a) Office Directors/Division Managers may request to employ, through the Human Resources Division or Administrative Services Assistance Program, temporary replacement for an employee who is on a Leave of Absence without pay, or an extended leave with pay.
 - b) Office Directors/Division Managers may fill an established position with a temporary contracted over-hire in such instances where the incumbent of such position is an employee on leave due to a medical condition and in the opinion of a physician will be unable to return to full duty. This authorization for a temporary over-hire must be approved by the Management and Budget Division of the Finance Department. The temporary contracted over-hire position must be posted. The duration of the temporary contract should not exceed nine (9) months and will provide

for termination of the contract with thirty (30) days notice if the replaced employee desires and is able to work. Pay and benefits for contract positions shall be set forth in the appropriate contract and administered in accordance with Policy & Procedure 808.9.

- c) If desired by the hiring authority, the temporary over-hire may be allowed to become a permanent replacement for an employee who is approved for Long Term Disability.

- 8. Any employee furloughed for budget purposes for a period of forth (40) hours or less shall not lose service time for pension purposes, but will be treated as though on a Leave of Absence with pay. For pension calculation purposes in any defined benefit plan, the employee will be credited with earnings for the furloughed period at the employee's then current hourly rate. For employees in the defined contribution plan, the City will make the same contribution it would otherwise have made for the affected period of work had no furlough occurred.

:5 FORMS:

As referenced herein.

:6 COMMITTEE RESPONSIBILITIES:

None.

:7 REFERENCE:

Personnel Manual amended by City Council January 20, 1969, Item 12. Procedure approved by City Council March 4, 1974, Item 13; amended by City Council May 16, 1997, Item 6; amended May 19, 1980, Item 12; amended December 29, 1980, Item 26; renumbered from 708.25 to 808.25 and amended November 14, 1983, Item 9, A-19; amended August 13, 1984, Item 12, A-10; amended by City Council February 20, 1989, Item 14A-2; amended June 29, 1992, Item 5DD; amended June 21, 1993, Item 2-P; amended August 9, 1993, Item OO; amended January 10, 1994, Item K; amended August 22, 1994, Item TT; amended February 6, 1995, Item RR; amended July 10, 1995, Item UU; amended March 11, 1996, Item 3 KK; amended March 24, 1997, Item 3-BB; amended May 22, 2000, Item 8-ZZ; amended September 11, 2000, Item 7X; amended June 3, 2002, Item B24; amended December 2, 2002, Item A18; amended April 14, 2003, Item A7; amended July 28, 2003, Item A4; amended September 15, 2003; amended August 9, 2004, Item A4; amended February 13, 2006, Item A5; amended September 10, 2007, Item A5; amended June 23, 2008, Item A4; amended October 5, 2009, Item A4.

:8 EFFECTIVE DATE:

This procedure effective October 5, 2009.