

	Administrative Regulation	
	Policy#	8.3
	Effective:	10/31/2017
	Revised:	06/25/2025
FAMILY AND MEDICAL LEAVE		Owner: Human Resources

Note: Terms in **bold** and *italics* throughout this policy are defined below. Formatting is applied only the first time each term appears in this regulation.

PURPOSE:

To outline the City’s compliance with the federal Family and Medical Leave Act (FMLA) of 1993.

SCOPE:

This policy applies to employees who have worked for the City for at least 12 months and completed at least 1,250 hours of service during the 12-month period immediately before the requested leave.

POLICY:

Family and Medical Leave (FML) entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Employees may but are not required to use accrued paid leave while on FML.

The employee requesting leave for their own ***serious health condition*** or to care for an ***eligible family member*** will be required to provide certification from their family members ***health care provider*** of the employee or the eligible family member to support the request.

Eligible employees are generally entitled to take up to 12 workweeks of leave during each 12-month ***leave year***. Under certain circumstances, leave may be extended beyond the 12 weeks. FML may be taken for the following reasons:

- A serious health condition of the employee or eligible family member
- Pregnancy disability
- The birth of a ***child***, the adoption of a child, or the placement of a foster child
- *Military Family Leave:*
 - Reasons related to certain military deployments.
 - May take up to 26 weeks of FML in a single 12-month period to care for a ***Qualifying exigencies*** for covered service member.

Employees approved for FML leave are entitled to job protection. They will be returned to the same or equivalent position upon their return to work. Employees are expected to promptly

return to work when the circumstances requiring FML have been resolved, even if leave was originally approved for a longer period.

If FML is used for the employee's own serious health condition, the employee must furnish a medical certification (also known as a fitness-for-duty certification) from their health care provider stating that the employee is able to resume work, either fully or with restrictions, prior to returning to work.

Periods of disability resulting from a compensable on-the-job injury or illness will also qualify as FMLA leave if the injury or illness meets the definition of a serious health condition. FMLA leave will run concurrently with workers' compensation leave.

PROCEDURE:

Step 1: Leave Request

- A.** Employees are encouraged to seek guidance for their leave request from Human Resources as soon as the need arises.
- B.** Employees must submit their leave requests through the City's third-party leave administrator, currently Lincoln Financial Services (subject to change), and notify their supervisor of their intention to take leave.
- C.** Employees must provide reasonable notice of their need for leave, unless extenuating circumstances exist. They must also provide medical certification of their own or their family member's serious health condition, if requested. If the leave is foreseeable, the employee should make a reasonable effort to schedule the leave so as not to disrupt City operations.
 - 1.** When the need for FML arises out of an emergency, the employee must give verbal or written notice within 24 hours after starting leave and submit a leave request within three (3) days after the need for the leave is known.
 - 2.** If an employee needs to take intermittent leave, they must report their absence within five (5) days for each occurrence of leave through the City's third-party leave administrator and discuss with their supervisor their intention to take leave as soon as practical.
- D.** If an employee has not previously requested FML but has been absent due to illness or injury for more than three (3) consecutive workdays, the supervisor should notify Human Resources to allow for inquiry into the reason for the unplanned absence to determine if an employee's leave qualifies under FML provisions.

Step 2: Notification

- A. Once the leave request is received, the City's third-party leave administrator will provide the employee with an Employer Response Notice, which will include, but is not limited to:
 - 1. Provisional approval, approval/designation, or denial of requested leave.
 - 2. Applicable medical certification requirements and the consequences for not providing such information as requested.
 - 3. Information regarding continuation of benefits.

Step 3: Medical Certification

- A. The employee must furnish the requested medical certification information within 15 calendar days after such information is requested. In some cases, a second or third opinion may be required (at the City's expense). The employee also may be required to submit subsequent medical verifications.
- B. A new medical certification may be requested under the following conditions:
 - 1. The employee requests an extension of leave.
 - 2. Circumstances described by the previous certification have changed significantly.
 - 3. More than 30 days have passed since the previous certification was received.
- C. The City will not request, and employees should not provide any genetic information in connection with an FMLA medical certification per the Genetic Information Nondiscrimination Act of 2008.
- D. Leave may be denied if required documentation is not received or is insufficient.
- E. The cost of medical certification not covered by insurance or other benefits will be paid by the City.

Step 4: Benefits while on Leave

- A. If an employee is on approved FML, the City will continue the employee's benefit plans on the same terms as if the employee had continued to work. Employees are required to pay their share of benefit premiums while on approved but unpaid FML.
- B. If an employee requires additional leave beyond the 12-week FMLA entitlement, benefits may be maintained for up to three months following the exhaustion of FML. The employee is responsible for paying the employee portion.
- C. After the three-months extension ends, the employee will be offered Continuation of Health Coverage (COBRA).

DEFINITION:

(1) **Child:**

For purposes of FML as a biological, adopted, foster, or stepchild, a legal ward, or a child of a person standing *in loco parentis* who is under 18 or, in some circumstances, if the child is 18 years or older. Employees may use FMLA leave to care for an adult child with a serious health condition who is incapable of self-care at the time the FMLA leave will start because of a mental or physical disability. The disability does not have to have begun or been diagnosed before the employee's child turned 18. A disability may occur at any age for FMLA purposes.

(2) **Chronic Health Condition:**

A condition that meets all of the following requirements:

- (1) Requires periodic visits for **treatment** by a healthcare provider or by a nurse or physician assistant under direct supervision of a healthcare provider.
- (2) Continues over an extended period, including recurring episodes of a single underlying condition.
- (3) May cause episodic rather than continuing **incapacity** (e.g., asthma, diabetes, epilepsy).

(3) **Health Care Provider:**

An individual who is licensed by the state to deliver health care services to certify FML. Healthcare providers may be a Doctor of Medicine or osteopathy, dentist, clinical psychologist, social worker, physician assistant, optometrist, podiatrist, chiropractor, nurse practitioner, nurse-midwife, or Christian Science practitioner who certifies FMLA within the scope of their practice.

(4) **Eligible Family Member:**

For purposes of FMLA means a spouse, parent, son or daughter, or next of kin of a covered servicemember, as defined by federal law.

- (1) A spouse includes a husband or wife recognized under state law, including same-sex and common-law marriages.
- (2) A parent includes a biological, adoptive, step, or foster parent, or an individual who stood in loco parentis to the employee as a child but does not include a parent-in-law.
- (3) A son or daughter includes a biological, adopted, foster, or stepchild, a legal ward, or a child of a person standing in loco parentis who is under 18 or, in some circumstances, 18 years or older. Employees may use FMLA leave to care for an adult child with a serious health condition who is incapable of self-care at the start of the leave because of a mental or physical disability. A disability may occur at any age for FMLA purposes.

- (4) For military caregiver leave, an eligible family member also includes the nearest blood relative of a covered servicemember, unless the servicemember designates another individual in writing.

(5) *Health Care Provider:*

An individual who is licensed by the state to deliver health care services to certify FML. Healthcare providers may be a Doctor of Medicine or osteopathy, dentist, clinical psychologist, social worker, physician assistant, optometrist, podiatrist, chiropractor, nurse practitioner, nurse-midwife, or Christian Science practitioner who certifies FMLA within the scope of their practice.

(6) *Incapacity:*

The inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment for the condition, or recovery from the condition.

(7) *In Loco Parentis:*

A person who provides day-to-day care or financial support for a child. Employees with no biological or legal relationship with a child can stand in loco parentis to that child and are entitled to FMLA (for example, an uncle who cares for his sister's children while she serves on active military duty or a person who is co-parenting a child with their certified domestic partner). Also, an eligible employee is entitled to FML to care for a person who stood in loco parentis to that employee when the employee was a child.

(8) *Leave Year:*

A 12-month period measured forward from the date the employee first uses FML. Under this method, the 12-month period begins on the Sunday immediately preceding the date on which the FML commences. If FML is taken after that 12-month period, their next 12-month period begins on the first day of the new leave.

Example: An employee takes 12 weeks of FMLA-qualified leave beginning April 1, 2023, which starts the clock on their 12-month period and makes the end date March 30, 2024. In September of 2024, they begin a new 12 weeks of FML, and a new 12-month period begins. They are now in a 12-month period which will end in September of 2025.

(9) *Qualifying exigencies:*

Related to the military deployment of a covered family member is leave to:

- (1) To address any issue that arises from the fact that a covered military member is notified of an impending call or order to cover active duty seven (7) or fewer calendar days prior to the date of deployment. Leave taken for this purpose can be used for a period of up to 7 calendar days beginning on the date a covered military member is notified of an impending call or order to cover active duty.

- (2) To attend any official ceremony, program, or event sponsored by the military that is related to the covered active duty or call to covered active duty status of a covered military member and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military services organization, or the American Red Cross that are related to the covered active duty or call to covered active duty status of a covered military member.
- (3) To arrange for alternative childcare when the covered active duty or call to active-duty status of a covered military member necessitates a change in the existing childcare arrangement for a child.
- (4) To provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the need to provide such care arises from the covered active duty or call to the covered active-duty status of a covered military member.
- (5) To enroll in or transfer to a new school or daycare facility a child, when enrollment or transfer is necessitated by the covered active duty or call to covered active-duty status of a covered military member.
- (6) To attend meetings with staff at a school or a daycare facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, for a child when such meetings are necessary due to circumstances arising from the covered active duty or call to covered active-duty status of a covered military member.
- (7) To make or update financial or legal arrangements to address the covered military member's absence while on covered active duty status or call to covered active duty status, such as preparing and executing financial and health care powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), obtaining military identification cards, or preparing or updating a will or living trust.
- (8) To act as the covered military member's representative before a Federal, State, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on covered active-duty status or call to covered active-duty status, and for a period of 90 days following the termination of the covered military member's covered active-duty status.
- (9) To attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or for a child of the covered military member, provided that the need for counseling arises from the covered active duty or call to covered active-duty status of a covered military member.

- (10) To spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment. Eligible employees may take up to 5 days of leave for each instance of rest and recuperation.
- (11) To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's covered active-duty status.
- (12) To address issues that arise from the death of a covered military member while on covered active-duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.
- (13) To address other events that arise out of the covered military member's covered active duty or call to covered active-duty status, provided that the agency and employee agree that such leave qualifies as an exigency, and that they agree to both the timing and duration of such leave.

(10) *Serious Health Condition:*

A condition involving continuing treatment by a healthcare provider including any of the following conditions:

- (1) A period of incapacity for more than 3 consecutive calendar days involving treatment by a healthcare provider two or more times, or at least one time that results in a regimen of continuing treatment.
- (2) Any period of incapacity due to pregnancy or prenatal care.
- (3) Any period of incapacity due to a ***chronic health condition***.
- (4) A period of incapacity that is permanent or long-term for which treatment may not be effective (e.g., Alzheimer's, severe stroke, terminal states of a disease).
- (5) Any period of absence to receive multiple treatments either for restorative surgery after an accident or injury or for a condition that would likely result in an incapacity for 3 or more days in the absence of medical treatment (e.g., cancer, severe arthritis).
- (6) Allergies or mental health conditions resulting from stress, but only if they meet all the other criteria of a serious health condition.
- (7) Substance abuse, but only if the employee is taking leave for treatment by a healthcare provider to resolve the substance abuse.

(11) *Treatment:*

Includes but is not limited to examinations to determine if a serious health condition exists and evaluation of the condition. Treatment does not include routine physical, eye, or dental exams. Specific conditions for which treatment does not qualify for FML include a cold, flu,

earaches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems and periodontal disease. Cosmetic treatments are not considered a serious health problem unless medically required or unless complications arise.

RESOURCES:

Leave Requests:

1. [MyLincoln Portal](#): If this is your “first time” logging in you’ll need the company code, **LF1073CIT**. Follow the guided steps, beginning with **Start a claim or leave**.

Website Resources:

1. [City’s Protected Leaves Springboard Page](#)
2. [Oregon Military Family Leave Act- ORS 659A.090-.099](#)
3. [Bureau of Labor and Industries. Oregon Family Leave Act.](#)
4. [Bureau of Labor and Industries OFLA FAQ](#)
5. [FMLA Employee Rights](#)