

CITY OF REDDING
Personnel Policies and Procedures Manual

Section: Leave of Absence Policies

Subject: Pregnancy Disability Leave

Personnel Director: Shari DeMaagd **Date:** 2-14-13

City Manager: [Signature] **Date:** 2/14/13

City Council Resolution No. (if applicable) N/A **Effective Date:** March 9, 2010

Purpose

The purpose of this policy is to establish and outline the City of Redding's Pregnancy Disability Leave policy and procedures.

Policy

It is the policy of the City of Redding to provide Pregnancy Disability Leave to employees in accordance with the California Pregnancy Disability Leave Act (PDL). An employee will receive up to four months or 88 working days or the working days in 17 1/3 weeks for pregnancy, childbirth or related medical conditions under PDL. Time off needed for prenatal or postnatal care; doctor-ordered bed rest; gestational diabetes; pregnancy-induced hypertension; preeclampsia; childbirth; postpartum depression; loss or end of pregnancy; or recovery from childbirth or loss or end of pregnancy would all be covered by an employee's PDL. Furthermore, an employee may be eligible for an additional 12 weeks or 60 working days to bond with the baby after the PDL ends.

Leave Requirements

An employee who is disabled from working because of pregnancy, childbirth, or related medical conditions shall be granted, upon request, a leave of absence for up to four months during the period of disability. Pregnancy disability leave may consist of leave without pay and/or paid leave such as accrued sick leave, vacation, administrative leave and compensatory time off. The basic minimum duration of the leave while disabled is two weeks and the leave must be concluded within one year of the birth.

Leave can be taken before or after birth during any period of time the employee is physically unable to work because of pregnancy or a pregnancy-related condition. Pregnancy disability leave is available when the employee is actually disabled. This includes time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from child birth, or any related condition. All leave taken in connection with a specific pregnancy counts toward computing the four-month period.

As an alternative to or in addition to pregnancy disability leave, the City may, at its sole discretion, temporarily modify a pregnant employee's own position or transfer a pregnant employee to a less strenuous or hazardous position upon request and with the advice of the employee's health care provider, if the temporary modification or transfer can be reasonably accommodated. A temporary modification or transfer shall not be counted toward an employee's entitlement of up to four months

pregnancy disability leave. If the need for a transfer is foreseeable, an employee should submit a request at least 30 days before the transfer is to begin.

When medically necessary, an employee may take pregnancy disability leave on a reduced work schedule or on an intermittent basis. The City may require an employee who is on a reduced work schedule or intermittent leave to temporarily transfer to an alternative position if the alternative position better accommodates the required work schedule than the employee's own position.

~~If an employee on PDL is not eligible for federal Family and Medical Leave Act (FMLA) leave, The City will maintain and pay for group health and welfare insurance coverage for the employee an eligible female employee disabled by pregnancy, childbirth, or a related medical condition for the duration of the leave, not to exceed four months over the course of a 12-month period commencing on the date the leave is taken at the employee's option and expense for up to 12 weeks, providing the full monthly premium is received by the City on or before the first day of the month for which the premium is intended. Alternatively, if the employee utilizes at least 20 hours per week of accrued leave time to maintain a "paid" status, the group health and welfare benefits will be maintained for up to 12 weeks utilizing the normal premium-sharing formula, if applicable, providing the employee pays their share of the premium on a timely basis.~~

~~If the employee is eligible for FMLA, the group health and welfare benefits will continue to be maintained for up to 12 weeks utilizing the normal premium-sharing formula if applicable, providing the employee pays their share of the premium on a timely basis.~~

An employee may use sick leave, vacation or other accrued leave during the pregnancy disability leave, pursuant to each bargaining unit's Memorandum of Understanding. The use of pregnancy disability leave may impact certain benefits and seniority date. For example: An employee on unpaid PDL will not accrue vacation or sick leave benefits.

Reinstatement shall be to the same position held prior to the pregnancy disability provided that the employee returns to work within four months and immediately following termination of pregnancy disability leave. If the employee would have been laid off or terminated had the employee remained on pay status during the leave period, the employee shall be afforded the same considerations afforded other employees who are laid off or terminated.

Procedures

Whenever possible, an employee shall provide at least 30 days advance notice, including when the leave is expected to begin and how long it will likely last. If 30 days notice is not practicable because of a medical emergency, for example, notice shall be given verbally as soon as the employee learns of the need for the leave. Failure to comply with these notice rules is grounds for and may result in, deferral of the requested leave until the employee complies with this notice policy.

The City may require certification from the employee's health care provider before allowing the employee a leave for pregnancy. The certification indicating disability should contain:

- The date on which the employee became disabled due to pregnancy;
- The probable duration of the period or periods of the disability; and
- A statement that, due to the disability, the employee is unable to perform the duties of the employee's position without undue risk to the employee, the successful completion of the pregnancy, or to other persons.

Returning to work from PDL shall require a release from the employee's physician.

Coordination of PDL with Family and Medical Leaves

Please see a brief description of the leaves and how they coordinate for a pregnancy related leave in the chart below:

	Pregnancy Disability Leave Act (PDL)	Family Medical Leave Act (FMLA)	California Family Rights Act (CFRA)
Eligible Employee	Any employee disabled by pregnancy; no minimum time requirement of hours worked or length of service	Must have worked for employer 12 months, and 1,250 hours in the last 12-month period	Must have worked for employer 12 months, and 1,250 hours in the last 12-month period
Amount of Leave/Paid Time Off	Up to 4 months for a specific pregnancy (88 working days or 704 hours)	12 weeks in a 12-month period (60 work days or 480 hours)	12 weeks in a 12-month period (60 work days or 480 hours)
Reason for Leave/Paid Time Off	Before or after birth during any period of time the individual is physically unable to work because of pregnancy or pregnancy-related condition. Examples: <ul style="list-style-type: none"> • Prenatal care • Severe morning sickness • Doctor-ordered bed rest • Child birth and recovery from child birth 	Birth of employee's own child, placement of child with employee for adoption or foster care, or employee's own serious health condition. Examples: <ul style="list-style-type: none"> • Prenatal care • Severe morning sickness • Doctor-ordered bed rest • Child birth and recovery from child birth • Baby bonding 	After birth of employee's own child or placement of child with employee for adoption or foster care to bond with the child. Note that CFRA also provides leave for the employee's own serious health condition, but excludes pregnancy as a covered reason because of the PDL provisions.
Coordination of Leaves	Can run concurrently with FMLA for the serious health condition of the employee (pregnancy or pregnancy related disability).	Can run concurrently with PDL for the serious health condition of the employee (pregnancy or pregnancy related disability), and with CFRA during baby bonding.	Can run concurrently with FMLA during baby bonding only in a pregnancy related leave. CFRA begins once PDL ends.

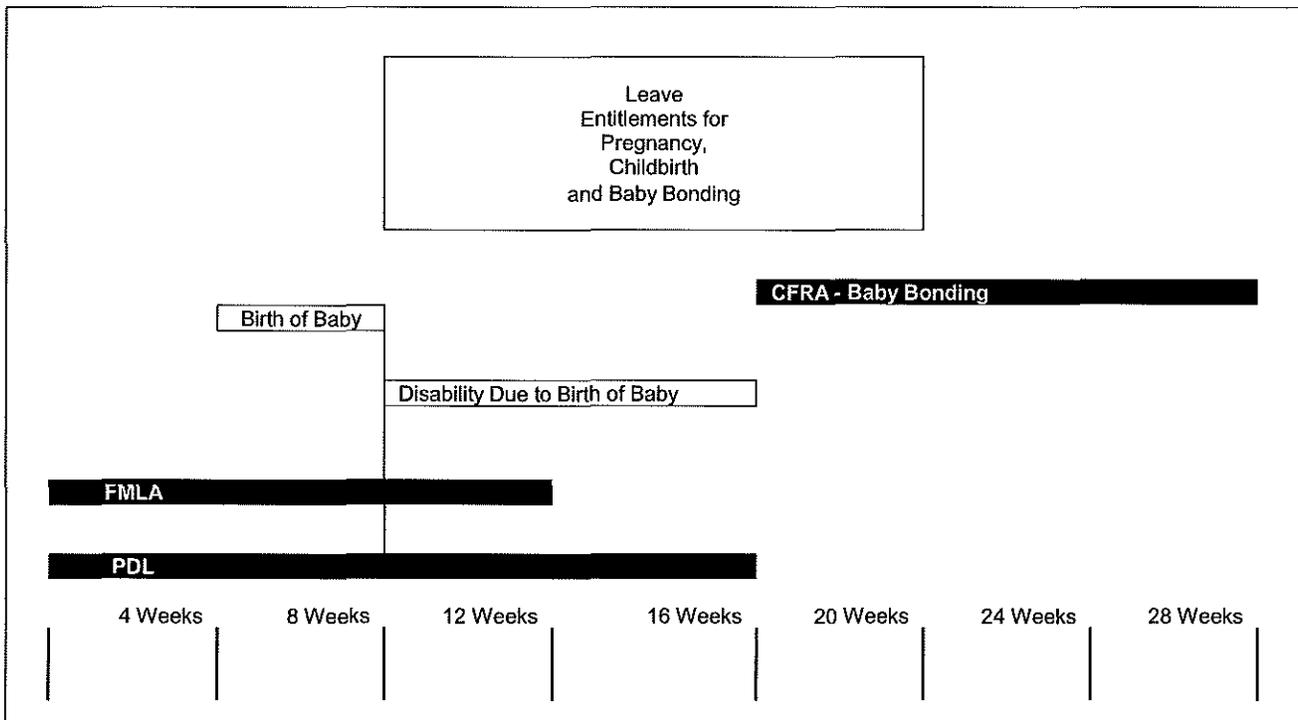
The amount of maternity leave an employee is entitled to will depend on each situation and whether or not the employee is eligible for FMLA/CFRA.

- If the employee is not eligible for family medical leave under FMLA and CFRA, the leave due to pregnancy disability will typically last up to 12 weeks; however, the employee would be entitled to a maximum of four months leave under state PDL law, subject to health care provider certification.

- If the employee is eligible for family medical leave under FMLA/CFRA, the leave due to pregnancy disability may last up to 28 weeks (seven months total - four months for the pregnancy related disability and twelve weeks for family leave).

The graph below illustrates how the leaves would interact if the employee were:

- eligible for the full seven month entitlement
- the birth of the child occurred after 8 weeks on PDL
- the employee was disabled after the birth for an additional 8 weeks, for recovery



Per the City's Memoranda of Understandings, the general provisions for Leave of Absence may apply once an employee exhausts all sick leave accrual. A leave of absence may be granted to employees by the City Manager for urgent and substantial reason, up to a maximum of one year. The leave of absence would run concurrently with the PDL/FMLA leaves because of the serious medical condition of the employee.

Additional paid and unpaid time off requests beyond the mandated leave available by federal and state law shall be made in writing, except when the employee is unable to do so. The Department Director has the discretion to grant or deny additional paid or unpaid time off, depending on the needs of the Department and/or Division.

A City of Redding employee who needs to take time off to care for a spouse because of a serious health condition related to pregnancy or to bond with a new child may be eligible to take up to twelve weeks of FMLA/CFRA leave. Whenever possible, an employee shall provide at least 30 days advance notice, including when the leave is expected to begin and how long it will likely last. If 30 days notice is not practicable because of a medical emergency, for example, notice shall be given verbally as soon as the employee learns of the need for the leave. The City may require certification from the spouse's health care provider indicating care is needed. The Department Director has the discretion to grant or deny additional paid or unpaid time off beyond the mandated leave times, depending on the needs of the Department and/or Division.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (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 was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

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, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

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