

PERSONNEL RULES & REGULATIONS MANUAL

SECTION 700 LEAVE, ATTENDANCE & HOLIDAYS

Section 701. Attendance and Punctuality

It shall be the policy of the City to require good attendance and punctuality on the part of its employees. Authorized absences must be pre-approved by the employee's supervisor. Unauthorized or excessive absences or tardiness will not be tolerated.

Section 702. Annual Leave

All classified employees and unclassified management employees are eligible to earn and accrue paid annual leave (vacation leave). An employee's rate of accrual is based on the employee's years of service with the City. The Department Head or his/her designee shall have the exclusive right to authorize vacation leave requests and the maximum number of employees that can be on leave at any time in order to maintain an effective working force at all times.

702.1 Annual Leave Accrual

All classified employees and unclassified management employees begin accruing annual leave with the first payroll period and each subsequent payroll period. Annual leave is credited to each employee after it is earned; no provision will be made for advance crediting of annual leave. Annual leave is accrued on a calendar year basis. An employee's paycheck/earning statement stub shows his/her accrued annual leave balance.

No more than 240 hours of annual leave shall be carried forward from one calendar year to a subsequent calendar year. All unused accrued annual leave in excess of 240 hours at the end of a calendar year shall be credited to the employee's accumulated sick leave.

For the purposes of this subsection, calendar year is the time period beginning at 12:00 midnight on the first day of the new pay period following December 31 of one year and ending at 11:59 on the last day of the pay period including December 31 of the subsequent year (for example, calendar year 2013 begins at 12:00 midnight on 01/06/2013 and ends at 11:59 p.m. on 01/04/2014).

Annual leave hours are earned by classified employees and unclassified management employees at a rate that corresponds to the years of service according to the schedule below:

Year of Service	Number of Hours Accrued Per Pay Period
0 – 3	3.69
4 – 6	4.62
7 – 9	5.54
10 – 12	6.46
After 12 Years	7.38

702.2 Scheduling of Annual Leave

Employees are required to request annual leave in advance and may only utilize time up to the total number of hours accrued at the time leave is taken. Employees should make the leave request as far in advance as required and in the manner determined by departmental procedure. In scheduling annual leave, the City will attempt to meet an employee's scheduling preference; however, the final authorization is at the discretion of the Department Head or his/her designee based on the operational needs of the department.

An employee who works an approved Alternative Work Schedule (AWS) and takes a full workday of annual leave on a regularly scheduled workday must use the amount of annual leave consistent with the normal hours worked in a day on the employee's core work schedule (e.g., if an employee works four 10-hour days and requests annual leave on one of his/her regular workdays, the employee must take 10 hours of annual leave on that day).

702.3 Illness/Injury Prior To/During Annual Leave

An occasion may arise when an employee becomes ill or is injured on a scheduled workday prior to and extending over a period of scheduled annual leave. If using available sick leave prior to the annual leave period, the scheduled annual leave may be canceled and the employee may continue using available sick leave until the end of the medical absence.

An employee who becomes ill or who is injured after a period of scheduled annual leave has begun does not have an automatic right to use sick leave instead of annual leave. If such a situation should occur, the leave period will still be charged as annual leave for the remaining time of the scheduled annual leave period and not converted to sick leave unless the employee provides written medical documentation verifying the employee's injury or illness during the scheduled annual leave period, and certifying that the illness or injury would have prevented the employee from reporting to work if the employee had been in a normal work status.

702.4 Payment for Unused Annual Leave

a. Upon Separation from Employment

Classified employees and unclassified management employees who have earned annual leave and who resign from the City service with two weeks' notice or who are separated from employment due to a reduction in force may request payment in full for all unused annual leave or may take such unused portion of their annual leave, except that an employee may not be in a leave status in his/her final two weeks of employment with the City. Classified employees and unclassified management employees who are separated from employment shall be paid for their unused annual leave. In no event shall such leave, taken or paid for, exceed 240 hours.

b. Upon Request

In the City Manager's discretion, a classified employee or unclassified management employee may receive payment for a maximum of 80 hours of unused annual leave in a fiscal year, provided that the employee requests such in writing using the appropriate form. Annual leave may be sold only one time per quarter in each fiscal year; and a minimum of 24 hours of annual leave may be sold at one time. An employee must have a minimum annual leave balance of 64 hours to sell leave and must have a minimum annual leave balance of 40 hours after the sale of leave. Exceptions to this policy may be made under extraordinary circumstances with the approval of the City Manager.

702.5 Donating Annual Leave

An employee is prohibited from donating annual leave to another employee except as permitted under the Donated Annual Leave Program as described in Section 703, Sick Leave.

Section 703. Sick Leave

City employees are expected to report to work each day, on time and as scheduled. However, employees or their family members sometimes become ill or injured, resulting in the acceptable use of sick leave.

a. Sick Leave Accrual

Employees begin accruing sick leave hours with the first payroll period and each subsequent payroll period. All classified employees and unclassified management employees shall accrue four (4) hours of sick leave each pay period. Sick leave may be accrued with no maximum, providing excellent protection against an unexpected or prolonged illness. An employee's paycheck/earning statement stub shows his/her accrued sick leave balance.

b. Notifying Supervisor of Sick Leave Usage

Employees shall make the request to use sick leave to their immediate supervisor or Department Head/designee as far in advance as required and in the manner determined by departmental

procedure. Employees shall report to their immediate supervisor or Department Head/designee on each subsequent sick day absent from a scheduled day of work unless an alternate schedule of reporting is authorized by Departmental policy. An employee's failure to report when absent on sick leave shall be considered absent without leave and the employee may be subject to disciplinary action.

An employee who works an approved Alternative Work Schedule (AWS) and takes a full workday of sick leave on a regularly scheduled workday must use the amount of sick leave consistent with the normal hours worked in a day on the employee's core work schedule (e.g., if an employee works four 10-hour days and requests sick leave on one of his/her regular workdays, the employee must take 10 hours of sick leave on that day).

c. **Use of Sick Leave**

Conditions under which sick leave may be taken are:

1. Personal illness.
2. Visit to an outpatient unit, a doctor's office, or a therapy session.
3. Birth or placement of a child for adoption, legal guardianship, or foster care.
4. To provide care for a family member (as defined in Appendix A, "Definitions") who is incapacitated as a result of illness or injury.

d. **Proof of Need**

A Department Head or designee may request medical certification (a doctor's slip) for any use of sick leave.

Medical certification is mandatory and requires proof of need as follows:

1. When an employee's sick leave exceeds three consecutive work days within the employee's regular work schedule; or
2. When sick leave is used for reasons set forth in Section 703(c)(4) and the family member does not reside in the employee's residence. Documentation confirming the illness or injury of the family member must be provided.
3. Written medical documentation required under this Section must be submitted to the Human Resources Department at the same time the employee's time and attendance record for the applicable pay period is submitted for payroll processing. If no written medical documentation is submitted as required, the leave amount will be deducted from the employee's accrued annual, compensatory, or personal leave, or must be taken as leave without pay.

e. **Advancement of Sick Leave**

In exceptional cases, a non-probationary classified employee or unclassified management employee, or a probationary classified employee or unclassified management employee who has successfully completed at least six months of his/her probationary period, may be advanced, with prior approval from his/her Department Head and the City Manager, unearned paid sick leave for a serious health condition. An employee requesting an advancement of sick leave will be required to provide medical certification from the employee's or the employee's family member's treating physician to be eligible. The Department Head and the City Manager shall determine, on a case-by-case basis, the amount of sick leave that may be advanced and whether the employee must exhaust all leave (i.e., annual, sick, personal, compensatory, etc.) prior to the advancement of sick leave, taking into consideration such factors as the employee's past performance and history of leave use.

Upon returning to work, the employee shall not be permitted to use accrued sick leave until the debt to the City has been repaid. In the event an employee is separated from City employment before the debt to the City is repaid, the remaining portion of unearned paid sick leave shall be deducted from the employee's unpaid salary, accrued annual leave, compensatory time, or retirement contributions

owed to the employee. The City must give the employee or former employee written notice of the deduction and an opportunity to respond within three days.

An employee requesting an advancement of sick leave must submit such request in writing (see Request for Advancement of Sick Leave form) and complete a Recovery of Employee Debt Agreement.

f. **Payment for Unused Sick Leave**

An employee who separates from City employment under any circumstances other than retirement shall not receive payment for unused sick leave.

Upon retirement from the City service, a classified employee and unclassified management employee shall be paid 25 percent of the sick leave which he/she has accumulated to his/her credit as of the date of retirement. For the purposes of this section, the definition of "retirement" shall be that which is set forth in Section 1000, Retirement Benefits.

g. **Use of Sick Leave When on Annual Leave**

See Section 702.3, Illness/Injury Prior To/During Annual Leave.

h. **Family Medical Leave Act Eligibility**

Certain absences chargeable to sick leave may also be eligible for entitlement under the Family Medical Leave Act (FMLA) during part or all of the absence. See Section 713, Family Medical Leave Act for more information.

i. **Donated Annual Leave Program**

The Donated Annual Leave Program provides a procedure for classified employees and unclassified management employees who have depleted their leave balances due to unforeseen circumstances to receive donations of annual leave from their coworkers to help ensure continuing income for the employee. The program is supplemental in nature and depends entirely upon voluntary donations by other classified employees and unclassified management employees.

Classified employees and unclassified management employees who have exhausted all of their accrued annual, sick, compensatory, and personal leave as a result of unforeseen personal illness or injury or the unforeseen illness or injury of a family member, as outlined in the Family Medical Leave Act (FMLA), which requires the presence of the employee are eligible to receive annual leave donations under this program. (See Section 713, Family Medical Leave Act)

Under this program, donated annual leave hours are converted to dollars at the donating employee's rate of pay and the employee receiving the donation is paid at his/her rate of pay.

1. **Requesting Leave**

A Department Head may make a request to the Human Resources Department for annual leave donations for an employee that meets the eligibility requirements. Requests for donations must be made on the Donated Annual Leave Program Request Form. The Human Resources Department will verify all information submitted and issue a Citywide request for annual leave donations for the employee.

An employee may receive no more than 12 weeks (60 workdays) of donated leave within a 12-month period under the Donated Annual Leave Program policy, consistent with the guidelines of the Family Medical leave Act (FMLA).

2. **Donating Leave**

Employees desiring to donate leave in response to a request should do so by completing the Donated Annual Leave Program Donation Form and returning it to the Human Resources Department.

Only accrued annual leave may be donated as part of this program. An employee making a donation must have an annual leave balance of the equivalent of 40 hours of accrued leave remaining after the leave donation is deducted. An employee may only donate leave in one-hour

increments. An employee who is separating from employment and who has in excess of the maximum allowed annual leave accrued (240 hours) may not donate that excess leave under this program.

Making a leave donation is entirely voluntary. No employee will be required to donate leave to any other employee, and the identities of employees that have donated may not be revealed to other employees, including the recipient.

Leave donated for an employee will be deducted proportionately from all donors and will only be deducted from the donor's leave balance when and if it is used. The amount of leave deducted from the donor's leave balance will be indicated on the donor's paycheck/earnings statement stub.

Section 704. Personal Leave

All classified employees and unclassified management employees receive 28 hours of personal leave to use each calendar year at the employee's discretion, with prior approval of the supervisor. Personal leave is not accrued; it is available to eligible employees on the first day of each calendar year and may be used anytime through the last day of the calendar year. An employee's paycheck/earning statement stub shows his/her personal leave balance.

Personal leave may be used in hourly increments. It may not be carried forward to the following calendar year; any unused personal leave remaining at the end of the calendar year shall be forfeited.

Employees should make the leave request as far in advance as required and in the manner determined by departmental policy. In scheduling personal leave, the City will attempt to meet an employee's scheduling preference; however, the final authorization is at the discretion of the Department Head or his/her designee based on the operational needs of the department.

An employee who separates from City employment under any circumstances shall not receive payment for unused personal leave.

For the purposes of this section, calendar year is the time period beginning at 12:00 midnight on the first day of the new pay period following December 31 of one year and ending at 11:59 on the last day of the pay period including December 31 of the subsequent year (for example, calendar year 2013 begins at 12:00 midnight on 01/06/2013 and ends at 11:59 p.m. on 01/04/2014).

Section 705. Compensatory Leave

Non-exempt employees working in excess of 40 hours during a workweek may request compensatory time in lieu of pay for overtime hours worked. The request for compensatory time must be approved by the Department Head or designee. Compensatory time for hours worked is one-and-one-half (1½) times each hour of overtime worked.

705.1 Accrual of Compensatory Leave

Employees may accumulate compensatory time up to a maximum of 40 hours at any given time. Upon reaching the maximum limit of accumulated compensatory time, the employee will receive overtime pay as stated in Section 600, Compensation.

705.2 Scheduling of Compensatory Leave

Employees are required to request compensatory leave in advance and may only utilize time up to the total number of hours accrued at the time leave is taken. Employees should make the leave request as far in advance as required and in the manner determined by departmental procedure. In scheduling compensatory leave, the City will attempt to meet an employee's scheduling preference; however, the final authorization is at the discretion of the Department Head or his/her designee based on the operational needs of the Department.

An employee who works an approved Alternative Work Schedule (AWS) and takes a full workday of compensatory leave on a regularly scheduled workday must use the amount of compensatory leave consistent with the normal hours worked in a day on the employee's core work schedule (e.g., if an employee works four 10-hour days and requests compensatory leave on one of his/her regular workdays, the employee must take 10 hours of compensatory leave on that day).

705.3 Payment for Accrued Compensatory Leave

An employee will be paid for accrued compensatory leave pursuant to Section 600, Compensation.

Section 706. Bereavement Leave

Classified employees and unclassified management employees will be granted bereavement leave and excused from work with pay for the equivalent of up to three workdays following the death of a family member (as defined in Appendix A, "Definitions"). The employee shall request use of bereavement leave in the manner determined by departmental policy. Bereavement leave will not be deducted from any other leave earned by the employee.

If an employee needs additional time off from work following the three days of bereavement leave, the first two workdays of additional time off may be taken as sick leave. Any further approved time off must be taken as annual leave.

A workday shall be considered the hours an employee works in his/her standard workday or his/her approved Alternative Work Schedule workday on the day bereavement leave is used (e.g., if an employee works four 10-hour days on his/her alternate Work Schedule, one workday of bereavement leave will be 10 hours).

Section 707. Holiday Leave

a. **Observed City Holidays**

Classified employees and unclassified management employees shall receive paid holiday leave for the following 10 holidays observed by the City:

Holiday	Day/Date Observed
New Year's Day	January 1
Martin Luther King Jr. Day	Third Monday in January
Presidents Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Thanksgiving Friday	Fourth Friday in November
Christmas Day	December 25

The standard observance of a holiday shall be on the day on which it occurs as shown above. If New Year's Day, Independence Day, Veterans Day, or Christmas Day (the "actual" holiday for the purposes of this section) falls on a Saturday or Sunday, a substitute holiday will be observed. If the actual holiday falls on a Saturday, the preceding Friday is the substitute holiday and observed as a holiday for that year for each eligible employee. If the holiday falls on a Sunday, the following Monday is the substitute holiday and observed as a holiday for that year for each eligible employee.

Each year the Human Resources Department will publish the dates of the official City holidays for that year. The holiday period is from 12:00 a.m. to 11:59 p.m. on the published date.

Holiday leave will not be deducted from any other leave earned by the employee. The City Manager is authorized to designate additional days as observed City holidays, provided it is in the best interest of the City.

b. **Use of Holiday Leave**

City offices will be officially closed on the 10 observed or substitute holidays listed in Section (a) above; and unless otherwise scheduled to work in support of City services or events, classified

employees and unclassified management employees must take holiday leave on those official or substitute holidays when offices are closed.

1. An employee who works a standard work schedule or an approved alternative work schedule and takes holiday leave when City offices are closed may use no more than 8 hours of observed/substitute holiday leave on that day. An employee who works more than an 8-hour workday on his/her approved alternative work schedule must use annual, compensatory, or personal leave for the remaining hours on that day consistent with the standard hours worked in a day on the employee's core work schedule (e.g., if an employee works four 10-hour days in a regular workweek and one day is an observed or substitute holiday, the employee must take 8 hours of observed/substitute holiday leave and 2 hours of annual, compensatory, or personal leave to equal the 10-hour day).

2. An employee who is assigned to work a mandatory compressed work schedule and takes holiday leave when City offices are closed may use observed/substitute holiday leave hours in an amount equivalent to one working day (e.g., an employee assigned to work a mandatory compressed work schedule of four 10-hour days receives 10 hours of observed/substitute holiday leave for an observed or substitute holiday which falls during the employee's workweek).

c. **Working on an Observed or Substitute Holiday**

See Section 600, Compensation.

d. **Holiday on Regularly Scheduled Day Off**

If an observed or substitute holiday falls on a non-exempt or exempt classified employee's or unclassified management employee's regularly scheduled day off, the employee shall receive holiday leave on another day to be taken in the fiscal year in which the holiday occurs as follows:

1. An employee who works a standard work schedule or an approved alternative work schedule shall receive eight hours of holiday leave.

2. An employee who is assigned to work a mandatory compressed workweek schedule shall receive holiday leave hours in an amount equivalent to one working day (e.g., an employee assigned to work a compressed workweek schedule of four 10-hour days receives 10 hours of holiday leave).

If both the substitute and actual holiday fall on an employee's regularly scheduled days off, the employee may receive holiday leave on another day for only one of those days, not both.

Section 708. Military Leave

Any employee who is a member of any United States Military Reserve or National Guard Unit and is required to engage in training exercises will be granted military leave not to exceed two weeks in any one year. Such employee, for each regular working day or holiday that he/she is required to engage in training, shall be paid his/her full regular salary. Such leave will not be deducted from any other leave earned by the employee. Leave without pay may be granted to a classified employee or unclassified management employee called for military service other than training exercises.

Section 709. Jury Duty Leave

Any classified employee or unclassified management employee called upon for jury service shall be granted leave for that purpose for each day that he/she is required to report for jury service and shall be paid for each such day his/her full salary. Where the release from jury service on any given day will permit an employee to reach his/her City office or work site one hour or more prior to the end of his/her regular workday, he/she shall report for work. Such leave will not be deducted from any other leave earned by the employee.

Section 710. Leave of Absence Without Pay

In the discretion of the Department Head or designee, requests for leave of absence without pay for periods of up to 10 workdays may be granted. The Department Head must notify the City Manager of all requests granted.

Requests for leave of absence without pay of more than 10 days not to exceed six months must be made in writing to the City Manager, who may approve the request at his/her discretion. In cases exceeding 10 workdays, an employee will be required to pay the cost incurred by the City for his/her own medical and dental insurance, long-term care insurance, life insurance, disability insurance, and other fringe benefits.

Section 711. Official Leave With Pay

At the discretion of the City Manager or designee, a classified employee or unclassified management employee may be granted official leave with pay under special or unusual circumstances (e.g., the employee is attending to matters related to official duties; during a declared state of emergency or when an employee has been directed not to remain at or report to work; for employee recognition or reward, etc). Such leave will not be deducted from any other leave earned by the employee.

Section 711.1 Liberal Leave Policy

Under certain severe weather or other emergency conditions, the City Manager may declare a liberal leave policy in effect for employees who are not designated as essential to continue required operations (as determined by the employee's Department Head). When a liberal leave policy is in effect, City offices remain open to the public on a normal operating schedule and all employees are expected to report to or remain at work as scheduled; however, policies governing the established time frames for requesting and granting of annual, compensatory, or personal leave, or leave without pay, are relaxed to accommodate individuals who cannot report to work on time, or at all, or remain at work due to the existing conditions.

For information regarding compensation when a liberal leave policy is in effect, refer to Section 600, Compensation.

Section 712. Workers' Compensation

See Section 1500, Work Related Injuries.

Section 713. Family & Medical Leave Act (FMLA)

The purpose of family or medical leave is to balance the demands of the workplace with the needs of family. It is the policy of the City of Gaithersburg to grant family and medical leave to employees, in accordance with the Family & Medical Leave Act of 1993.

713.1 Policy

An eligible employee is entitled to family or medical leave paid, unpaid, or a combination of paid and unpaid for the birth of a child and to care for such child; for the placement of a child for adoption or foster care; to care for the employee's seriously-ill family member (as defined in Appendix A, "Definitions"); or because of a serious health condition that makes the employee unable to perform his or her essential job functions; a qualifying "exigency" for a covered family member on active duty for short-notice deployment, military events, and post-deployment activities; and to care for a spouse, son daughter, parent or next of kin who is a member of the armed forces and is undergoing medical treatment or is medically unfit to perform military duties due to an injury or illness incurred while on active duty.

An employee can take up to twelve (12) weeks of leave in a 12-month period under this policy. The 12-month period for family or medical leave will commence with the first use of family or medical leave. Each time an employee takes family or medical eligible leave, the amount of leave taken is subtracted from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take for the remainder of the 12-month period.

An employee who is the spouse, son, daughter, or parent can take up to 12 weeks of unpaid leave for certain situations related to a "qualifying exigency" of a covered military member, such as short-notice deployments and post-deployment activities.

An employee who is the spouse, son, daughter, parent or next of kin of a covered service member can take up to 26 weeks of unpaid leave in a single 12-month period to care for the service

member, provided that the total number of weeks of leave to which both a husband and wife may take to care for a service member may not exceed 26 workweeks in a single 12-month period.

During an approved family or medical leave, an employee may continue their City sponsored benefits at the same rate as an active at work employee.

Neither sick nor annual leave shall accrue to an employee during a term of family or medical leave without pay.

At the expiration of the family or medical leave, the employee has the right to, and shall be reinstated to, the position he/she vacated, if the position still exists; or, if not, to any other vacant position in the same class.

If a husband and wife both work for the City, the amount of family or medical leave entitlement which the husband and wife may take for those purposes shall not exceed a combined total of twelve (12) weeks leave in a 12-month period.

713.2 Procedures

a. Employee Request for Leave

1. Whenever the need for family or medical leave is foreseeable, the employee will notify his/her supervisor at least 30 days in advance of when the leave is to begin, or as soon as possible and practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment so as to minimize disruption to the City's operation.

2. If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied up to 30 days from the date the employer receives verbal notice.

3. If the need for family or medical leave is not foreseeable, the employee is required to follow the Department's regular call-in procedures for reporting an absence, unless there are unusual circumstances preventing the employee from doing so.

4. If any case in which the necessity for leave due to active duty of a family member is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

5. Requests for family or medical leave must be submitted to the Department Head via the Family or Medical Leave Request Form. Such request must be given by the employee or by the employee's representative (e.g., family member or other responsible party) if the employee is unable to give such notice personally.

6. Upon request for family or medical leave, the Department Head will forward the request to the Director of Human Resources who will confirm the employee's eligibility based on the date the requested leave is scheduled to commence, or to confirm the employee's eligibility based on a projection that the employee will be eligible on the date leave would commence, or may advise the employee when the eligibility requirements are met.

7. The employee has satisfied the notification requirement, even if he/she is not eligible for family or medical leave at the time the request is submitted.

8. Upon receiving notice from an employee of his/her need to take family or medical qualifying leave, the Director of Human Resources shall respond with memorandum which provides information which the employee needs to know about his/her responsibilities while on family or medical leave. The memorandum shall include:

(a) A requirement that the employee provide certification of medical necessity for the leave by providing a Certification of Physician or Practitioner Form by their health care provider within 15

days of the request and that failure to do so may result in continuation of the leave being denied until the certification is received.

(b) A requirement that the employee provide periodic reports of his/her status and intent to return to work to his/her designated Department Head/designee;

(c) Information regarding the required use of any accrued leave the employee may have;

(d) Provide information on health insurance premium payments of the employee's portion while on unpaid leave;

(e) Provide information on the requirement of a fitness-for-duty certification before the employee can return to his/her position;

(f) Provide information that if the employee should not be medically able to perform the essential functions of the position held prior to the leave, or to a comparable position; and

(g) Notice of the consequences of the fraudulent use of family or medical leave which is dismissal on the first offense.

The employee is required to sign this memorandum acknowledging the receipt of a copy of it and his/her understanding of its contents.

b. Certification of the Serious Health Condition

1. The City will require medical certification to support a claim for leave for an employee's own serious health condition or to care for the serious health condition of a family member as provided for in the Certification of Physician or Practitioner Form. Human Resources will make this request in writing. The employee is responsible for:

(a) Providing this form to the Human Resources Department within 15 calendar days of the request; or

(b) For providing a reasonable explanation for the delay.

Failure to provide timely certification may result in a denial of continuation of leave until the certification is submitted. Disciplinary action may be taken against the employee for being on unauthorized leave of absence.

2. In its discretion, the City may require a second medical opinion and periodic recertification at the City's expense. If the first and second opinions differ, the City, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the City and the employee or the employee's representative. The City's health care provider may contact the employee's health care provider for clarification of any certification. Additional information will not be requested by the City's health care provider.

c. Recertification of Serious Medical Condition

The Director of Human Resources may request the employee obtain recertification at any reasonable interval, but not more than every 30 days unless:

1. The employee requests an extension of leave; or

2. The circumstances of the original certification have significantly changed (e.g., duration, nature, complications of illness); or

3. The Director of Human Resources has received information which casts doubt on the continuing validity of the certification; or

4. The employee is unable to return to work after Family or Medical Leave because of the continuation, recurrence, or onset of a serious health condition thereby preventing the recovery of health insurance premiums made by the City on the employee's behalf.

d. **Protection of Information**

In order to protect employee health information, only a Human Resources profession or management official will contact health care providers in order to obtain medical certifications. Under no circumstances may the employee's direct supervisor contact health care providers. Those permitted to contact health care providers may not ask for additional information beyond what is required in the certification form.

e. **Periodic Reporting Required of Employee**

The Director of Human Resources shall require an employee on Family or Medical Leave to report periodically on his/her status and intent to return to work by contacting the employee's Department Head/designee.

Failure of an employee to comply with the reporting requirements of this procedure may result in disciplinary action up to and including dismissal.

f. **After Expiration of Family or Medical Leave Entitlement**

If the employee advises the Department Head or designee that he/she does not intend to return to work, the employee shall be asked to confirm that intent in writing. Employees who do not plan to return to work at the expiration of family or medical leave should notify their supervisor no later than the expiration of leave. The employee will then be separated from employment, and the employee's entitlement to reinstatement, continued leave, and all other benefits will cease. The employee shall be directed to contact the Director of Human Resources regarding COBRA health insurance coverage.

Failure to return to work without giving adequate notice at the expiration of the leave may result in dismissal. If the employee is unable to return to duty to perform the essential functions of his/her position because of a physical or mental condition, including the continuation of a serious health condition, the City's obligations under the Americans with Disabilities Act (ADA) will govern.

At the request of the employee and subject to medical certification that the employee will be able to return to work within 30 days of the expiration of family or medical leave, the Department may recommend that it is in the best interest of the City to hold the employee's position open for no more than an additional 30 days. The City Manager may approve holding the position open for the employee for a period not to exceed 30 days.

g. **Leave Entitlement/Usage**

1. Family or Medical Leave will run concurrent with a workers' compensation absence.

2. Under some circumstances, employees may take family or medical leave intermittently – which means taking leave in blocks of time, or by reducing the normal weekly or daily schedule. Where family or medical leave is for the birth or placement of a child for adoption or foster care, use of intermittent leave is subject to the employer's approval, will be considered on a case-by-case basis, will be based on the needs of the employer, and is limited to a period of six months. Family or medical leave may be taken intermittently whenever it is medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work. If leave is requested on this basis, however, the City may require the employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits.

3. If requested, family or medical leave must be granted to an employee in a permanent position working at least 20 hours per week with at least one year of service with the City. The 12-month period for family and medical leave will commence with the first use of family or medical leave.

4. For part-time employees and those who work variable hours, the family or medical leave entitlement is calculated on a pro-rata or proportional basis (e.g., an employee who is scheduled to work 20 hours per week is entitled to 240 hours).

5. Employees requesting family or medical leave are required to exhaust all accrued sick leave, annual leave, compensatory leave, or other approved leave, as appropriate, prior to the use of leave without pay.

h. **Family Leave**

1. Family leave used in connection with the birth or the placement of a child for adoption or foster care must be completed within 12 months of the date of the birth or placement of the child.

2. Family leave may be taken intermittently or on a reduced schedule, only with the supervisor's approval.

3. Employees may request family leave as needed under this procedure but are guaranteed family leave only so long as the cumulative total of family or medical leave absences do not exceed 12 weeks during a 12-month period.

i. **Medical Leave**

1. As a general rule, where inpatient care is not involved, absences of more than three days (and requiring the continuing treatment of a health care provider) for the employee's serious health condition or for the care of a sick family member will be considered eligible for medical leave.

2. Prenatal care is explicitly included; routine physical exams are explicitly excluded.

3. Employees may request medical leave as needed under this procedure but are guaranteed medical leave only so long as the cumulative total of family or medical leave absences does not exceed 12 weeks during a 12-month period.

4. Nothing in this policy limits the right of employees to request sick leave in order to provide necessary care and attendance to a sick family member under existing sick leave policies (see Section 703(c)).

5. An employee will be required to provide medical certification from a health care provider indicating the need for medical leave, the continuation of medical leave, and/or the ability of the employee to return to work.

(a) Medical certifications must state, in the case of the employee's serious health condition, that he or she is unable to perform the functions of the position.

(b) Where the employee is requesting medical leave to care for a seriously ill family member, the health care provider must either certify that the third-party care is required or that the employee's presence would be beneficial to the patient. Such certification, in conjunction with an employee's statement of the care he/she will provide, will be sufficient to satisfy this requirement.

(c) If intermittent leave or leave on a reduced schedule is required, the medical certification must describe the treatment regimen provided (i.e., doctors' visits, therapy, etc.).

6. Medical leave will be granted on an intermittent basis or on a reduced work schedule if certified as necessary by the health care provider.

j. **Continuation of Benefits**

1. Employees on family or medical leave whose health insurance coverage level changes (i.e., individual to two party) are responsible for filing the appropriate health insurance forms within the specified time period. Employees whose coverage level increases are responsible for the increased employee contribution.

2. During the leave period, the City will continue coverage under the health insurance plan in which the employee is participating prior to going on leave, at the level and under the conditions coverage would have been provided, if the employee had not gone on leave. If an employee is in a paid leave status, the employee's share will continue to be paid through payroll deduction. Employees who are in a leave without pay status must submit premiums to Human Resources for all applicable benefits (i.e., health, dental, long-term care, medical savings account, dependent care) by the first of each month. Health insurance coverage will be canceled after a required payment is more than 30 days late. Payment must be made to the City of Gaithersburg Human Resources Department, 31 South Summit Avenue, Gaithersburg, MD 20877, and must be in the form of a personal check or money order.

3. If health insurance coverage lapses due to nonpayment of the required premium or employee's cancellation of coverage, the employee may request restoration of health insurance upon return from leave. Health insurance coverage will be restored effective the first day of the month following the employee's return from family or medical leave. A written request to restore health insurance must be received by the Human Resources Department within 60 days of returning to work.

4. An employee that chooses not to return to work at the expiration of the family or medical leave will be terminated from the City's health and dental insurance and will be required to reimburse any contributions to health and dental insurance made by the City while the employee was in a leave without pay status. An employee that chooses to return to work in a capacity that does not meet the eligibility requirements for health and dental insurance or chooses not to return to work will be eligible for COBRA (Consolidated Omnibus Budget Reconciliation Act) coverage.

5. Employees who separate from employment while on family or medical leave will be eligible for COBRA if they meet COBRA eligibility requirements. The effective date for COBRA coverage will be based on the date of separation from employment.

k. **Alternate Duty**

The City may not require, but an employee with a serious health condition may voluntarily agree, to perform "alternate duty" work in order to accommodate his/her circumstances. Time spent performing alternate duty work does not count against an employee's FMLA leave entitlement.

l. **Return to Former Position**

After the expiration of the employee's entitlement to 12 weeks of family or medical leave within the 12-month period, employees must return to duty. If the employee is unable to return to duty to perform the essential functions of his/her position because of a physical or mental condition, including the continuation of a serious health condition, the City's obligations under the Americans with Disabilities Act (ADA) will govern.

m. **Return to Work Procedure**

1. For family or medical leave due to the employee's own serious medical condition and upon being released by his/her personal physician, the employee is required to provide a written certification by his/her personal health care provider of fitness to return to work. This certification must indicate any restrictions of the employee's ability to perform the essential functions of his/her position and specifically address the employee's ability to perform the essential functions of his/her job. Additionally, if an employee takes intermittent leave under the FMLA – such as a few days each month – and reasonable job safety concerns exist, the City may require the employee to turn in a fitness-for-duty certification before returning to work. This certification shall be provided to the City's Director of Human Resources.

2. The employee shall not be restored to his/her position prior to receipt of written certification from a health care provider and/or a fitness-for-duty certification and until any applicable Americans with Disabilities Act (ADA) considerations are resolved.

3. An employee on family or medical leave must be returned to the same or an equivalent position as that held when the leave commenced. The City cannot guarantee that the employee will be returned to his/her original job. There is an exception to this provision in the case of key employees, who may be denied job restoration if such denial is necessary to prevent substantial economic harm to

the City. The designation of an employee as a key employee shall be made by the Department Head (or the appointing authority in the case of a Department Head who is requesting leave) as soon as practical after the Department Head (or appointing authority) learns of the need for use of family or medical leave.

4. Any exception to this provision requires the approval of the Director of Human Resources prior to the employee's return to work. Departments requesting permission to return an employee to a different but equivalent position must provide the Director of Human Resources with detailed justification of the reason the employee cannot be returned to his/her former position.

n. **Recordkeeping/Time & Attendance**

1. The Human Resources Department will be responsible for maintaining records of family and medical leave, for tracking the amount of family and medical leave used within the 12-month period, and for notifying the employee in writing that family or medical leave is being designated.

2. In addition to the type of leave requested (annual, sick, compensatory, or leave without pay), the leave request form should include a notation that the absence is for family or medical leave.

3. Time and attendance records should be coded with the routine codes for sick leave, annual leave, compensatory leave, or family or medical leave.

4. When leave is taken intermittently or on a reduced schedule, only the time actually taken as family or medical leave may be charged against the employee's entitlement.

o. **Accrual of Annual/Sick Leave**

An employee will not accrue any annual or sick leave during unpaid family or medical leave.

p. **Consequences to the Employee for Fraudulently Obtaining Family or Medical Leave**

An employee who submits fraudulent documentation to obtain family or medical leave is not protected by the Family and Medical Leave Act job restoration or maintenance of health insurance benefit provisions. Fraudulent requests for family or medical leave will be considered a violation of City policy and will result in dismissal on the first offense. Fraudulent documentation, for example, would include falsified or forged Certification of Physician or Practitioner Forms.

Section 714. Deployment of Family Members in the Armed Services

Eligible employees may take paid or unpaid leave from work on the day that a spouse, parent, step-parent, child, step-child, or sibling of the employee is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States. To be eligible for such leave, the employee must have worked for the City for 12 months prior to taking leave and for at least 1,250 hours during that 12-month period.

An employee requesting leave under this section shall make the request in writing as far in advance as possible. The employee may be required to submit proof verifying that the leave is being taken in accordance with this section. *(Effective 1/6/2014)*