

## **SECTION XVIII: FAMILY AND MEDICAL LEAVE ACT (FMLA)**

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### 1. GENERAL POLICY.

- A. The Family and Medical Leave Act of 1993 requires covered employers, including public agencies to provide up to twelve (12) work weeks of unpaid, job-protected leave in a twelve (12) month period for one of the following reasons:
1. For the birth and care of a newborn child of the employee
  2. For the placement with the employee of a son or daughter for adoption or foster care.
  3. To care for a spouse, son, daughter, or parent with a serious health condition.
  4. To take medical leave when the employee is unable to work because of a serious health condition.
  5. For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.
- B. A single "public agency" is further defined under Section 3(x) of the Federal Labor Standards Act to include Cottonwood Heights Parks and Recreation Service Area.
- C. A 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves either:
1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e. inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care.
  2. Continuing treatment by a health care provider, which includes:
    - a. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
      - Treatment two or more times by or under the supervision of a health care provider (i.e., in person visits, the first within 7 days and both within 30 days of the first day of incapacity)
- or
- One treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing

regimen of treatment (e.g., prescription medication, physical therapy;

or

- b. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence;

or

- c. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence;

**or**

- d. A period of incapacity that is permanent or long term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment;

or

- e. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

D. Twelve weeks of FMLA leave will be calculated on a rolling leave year from the first time off granted as FMLA. The Human Resource Manager will track the use of FMLA leave and coordinate with accrued paid leave.

E. Intermittent leave or a reduced leave schedule for medical reasons can be taken under FMLA. If FMLA leave is for the birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

(1) Intermittent leave is leave that is taken in separate blocks of time for a single qualifying reason.

(2) A reduced leave schedule is a leave schedule that reduces the usual number of hours per work week or hours per work day.

- (3) When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.
- F. Military Family Leave under FMLA entitles eligible employees who are family members of covered service members will be allowed up to 26 weeks of leave in a single 12 month period to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty.
1. Qualifying Exigency Leave allows for eligible employees with a covered military member serving in the National Guard or Reserves to use for any qualifying exigency arising out of the fact that a covered military member is on active duty or called to active duty status in support of a number of broad categories for which the employee can use the normal 12 workweeks of FMLA:
    - a. Short-notice deployment
    - b. Military events and related activities
    - c. Childcare and school activities
    - d. Financial and legal arrangements
    - e. Counseling
    - f. Rest and recuperation
    - g. Post-deployment activities
    - h. Additional activities not encompassed in the other categories, but agreed to by the employer and employee.
  2. ELIGIBILITY. To be eligible for FMLA leave, an employee must:
    - A. Work for a covered employer.
    - B. Have worked for the employer for at least twelve (12) months The 12 months of employment need not be consecutive but employment periods prior to a break in service of seven years or more need not be counted unless the break is military related.
    - C. Have worked for at least one thousand two hundred fifty (1,250) hours over the previous twelve (12) months.
    - D. Work at a location in the United States or in any territory or possession of the United States where at least fifty (50) employees are employed by the employer within seventy five (75) miles..

3. LEAVE OPTIONS.

Benefited employees with accrued vacation and sick leave or other paid time off must use the paid leave to run concurrently with FMLA leave.

- A. Eligible employees will not be compensated for paid holidays during leave without pay.
- B. Vacation and sick leave does not accrue during time off without pay.
- C. All Service Area policies regarding time off without pay apply to FMLA leave.

4. NOTICE AND MEDICAL CERTIFICATION REQUIREMENTS. When an employee notifies Cottonwood Heights Parks and Recreation Service Area of their request for FMLA leave, Cottonwood Heights Parks and Recreation Service Area may provide the employee with an Employer Response to Employee Request for Family and Medical Leave Form (Form WH-381). Cottonwood Heights Parks and Recreation Service Area may require the employee to provide advanced leave notice and medical certification.

Additionally, FMLA leave may be denied if the following requirements are not met:

- A. Employees seeking to use FMLA are required to provide thirty (30) days advance notice when the leave is foreseeable and such notice is practicable. If the leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practical, generally either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case.
- B. The Service Area may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider.
  - 1. The Service Area may request a second or third medical opinion if deemed necessary (at the expense of the Service Area).
  - 2. The Service Area may request periodic recertification.
  - 3. The Service Area may use a health care provider, a human resource professional, a leave administrator, or a management official, but not the employee's direct supervisor – to authenticate or clarify a medical Certification of a serious health condition.

- C. The Service Area may request certification for approval for the employee to return to work.
5. BENEFITS AND EMPLOYMENT STATUS.
- A. During FMLA leave, the employer must maintain the employee's health, dental, and life insurance benefits coverage under the Service Area group insurance plans that the employee has with the Service Area.
    - 1. The employee is responsible to pay for his/her share of the health insurance premiums while on leave.
    - 2. In some instances, the Service Area may recover premiums it paid to maintain insurance coverage for an employee who fails to return to work from FMLA leave.
  - B. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's FMLA leave. However, no seniority or additional benefits will accrue during the FMLA leave.
  - C. Upon return from FMLA leave, the employee must be restored to their original or equivalent positions with equivalent pay, benefits, and other terms and conditions of employment.

APPROVED AND PASSED THIS 15th DAY OF APRIL, 2009

COTTONWOOD HEIGHTS  
PARKS AND RECREATION SERVICE AREA

By: \_\_\_\_\_

Mike Peterson, Director

BOARD OF TRUSTEES

By: \_\_\_\_\_

Carl Evans, Chairman