

**CITY OF FRISCO PERSONNEL POLICIES**  
**SECTION: LEAVE**

---

---

**Subject:** City Leave of Absence

**Effective Date:** 08/06/2013

**Approved By:** Ordinance 16-09-71

**Revision Date:** 09/20/2016

---

---

**I. STATEMENT OF PURPOSE**

The purpose of this policy is to outline and establish general procedures and guidelines for compliance with the City Leave of Absence (City LOA) Policy. City LOA is job protected leave available to an employee for their own illness or injury.

**II. PROCEDURES**

Under the City LOA, eligible employees may take up to 90 calendar days of unpaid, job-protected leave each year for the employee's own injury or illness.

**City LOA Runs Concurrently With Other Types of Leave:** The City LOA is typically unpaid unless the absence also qualifies for paid leave under another City policy, at which point the City LOA and paid leave will run concurrently.

**Sick Leave:** If an employee has any available accrued sick leave, it must be used concurrently with any available City LOA time, provided the employee's absence is covered by the City's sick leave policy and the employee satisfies that policy's procedural requirements.

**Vacation, Comp Time & Holiday:** If a City LOA qualifying absence is not covered by the City's sick leave policy or if the employee has exhausted all accrued sick leave, the following leave time will be applied and will run concurrently with any remaining LOA time in this order: accrued vacation, comp time and then holiday leave.

**Donations of Leave:** Employees on City LOA may be eligible for donated time from coworkers if all accrued time has been exhausted. Human Resources will send city-wide requests for employees who wish to donate any of their accrued vacation time to eligible employees in accordance with the City's Donation of Leave policy.

**Disability & Workers' Comp. Leave:** Workers' compensation and short- and long-term disability absences will run concurrently with City LOA. Employees being paid

---

either workers' compensation wage benefits or short- or long-term disability benefits while on leave are not required to use accrued sick, holiday, comp time or vacation leave while collecting workers' compensation or disability benefits.

**City LOA if Not Eligible for FMLA:** Employees who have been employed less than one year or are part-time employees that do not accrue paid time off, may qualify for the City LOA for the employee's own injury or illness. This leave is available from their first day of employment and offers up to 90 calendar days of job protected leave based on a rolling calendar.

**City LOA if FMLA is Exhausted:** The City LOA provides eligible employees an additional 90 consecutive **calendar** days of unpaid job-protected leave each rolling calendar year after FMLA has been exhausted. Employees must have FMLA leave available to then be eligible for City LOA. This would provide FMLA qualifying employees a total of almost 6 months of job protected leave for the employee's own injury or illness.

**Benefits Only Status:** – Employees on a City leave who do not receive a paycheck from the City of Frisco will be transitioned to a Benefits Only status. During this period, employees will no longer accrue vacation, holiday, and sick leave or paid for holidays, and must pay their benefit premiums to the City of Frisco while on LOA.

### III. **ELIGIBILITY**

Employees (full-time and/or part-time) are eligible for the City LOA on the first day of employment. The City will grant City leave if the employee has a serious health condition (as defined by the FMLA policy, Section 8.10.17.h) which makes the employee unable to perform all essential functions of his/her position.

### IV. **EMPLOYEE RESPONSIBILITY**

Employees must give the City sufficient information so that it can make a determination as to whether the employee's absence qualifies for City LOA. If an employee fails to explain the reasons, leave may be denied. Employees must also indicate on their time sheet/records when an absence or tardy is or may be covered by City LOA. The City may retroactively designate leave as qualifying as City LOA upon notice to the employee. Absences of three days or more due to a serious health condition must be reported to the City's Human Resources Department.

**At Least 30 Days' Notice Required for Foreseeable Leave:** Employees must provide their Department Director or Human Resources with at least 30 days' advance notice, or as much notice as possible, when the need for City leave is foreseeable.

---

**Notice as Soon as Practicable for Unforeseeable or Emergency Leave:** If the need for City leave is not foreseeable, employees must provide their Department Director or Human Resources with as much advance notice as practicable, in accordance with their Department's normal call-in procedures. The employee must also provide an explanation as to why he/she was unable to provide at least 30 days advance notice of the need for leave.

**Content of Notice:** Employees must provide the City with at least verbal notice of the reason(s) for the leave and the anticipated timing and duration of the leave, if known. If possible, a written request is preferred. If the employee has previously taken City leave for the same reason, he/she must specifically reference the qualifying reason for leave or the need for City leave. The City may seek additional information from the employee, and the employee is obligated to provide sufficient information so the City can determine whether the absence qualifies for City leave. The employee must notify the City as soon as practicable if the dates of his/her scheduled leave change or are extended, or were initially unknown (generally the day following notification by treating physician of change or confirmed date).

**Compliance with City's Call-In Procedures:** Employees must comply with their Department's normal call-in procedures for reporting absences, tardies and requesting leave, e.g., contacting a specific supervisor by a certain time. Notice may be given by the employee's spokesperson only if the employee is physically unable to do so personally. When an employee does not comply with the City's and Department's normal call-in procedures and no unusual circumstances justify the failure to comply, City leave may be delayed or denied.

**Consequences for Failing to Provide Required Notice:** If the employee fails to timely explain the reasons for his/her need for leave, City LOA may be denied or delayed for up to 30 days. The employee may also be subject to disciplinary action in accordance with City policy. Likewise, if an employee fails to respond to the City's reasonable inquiries regarding a leave request, the employee may not be granted the City LOA protection.

**Scheduling Planned Medical Treatment:** When an employee intends to take leave for planned medical treatment for him/herself, the employee is expected to consult with his/her supervisor and try to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the treating health care provider. This should be done prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employee and the City. See Section 8.10.9. regarding intermittent time.

**Periodic Check-In While on City LOA:** Employees must check in periodically with their supervisor and with the Human Resources designated representative regarding

---

their status and intent to return to work. Prior to taking leave, employees will be advised regarding the frequency and method by which they are expected to check in. If the employee discovers that the amount of leave originally anticipated is no longer necessary, the employee must provide the City with reasonable notice (*i.e.*, within two business days) of the changed circumstances, if foreseeable.

**V. EMPLOYER RESPONSIBILITY**

The Human Resources designated representative is responsible for the verification, approval and notification of the City LOA. The Human Resources designated representative may designate leave as City leave if it determines that a qualifying event has occurred.

**Eligibility and Responsibilities Notice:**

The Human Resources designated representative will notify an employee of his/her eligibility to take City LOA within five business days (absent extenuating circumstances) of its receipt of the employee's request for City leave (or from when the City otherwise determines that an employee's absence may qualify for City LOA). Employee eligibility is determined at the commencement of the first instance of leave for each qualifying reason in the applicable 12-month rolling calendar period. A letter of notification will be mailed to the employee's home address on file. This letter will also detail the City's specific expectations, the employee's obligations, and consequences to the employee of not meeting his/her obligations. If an employee's eligibility status changes or if any of the specific information changes, the Human Resources designated representative will so notify the employee within five business days of the receipt of the changed information, absent extenuating circumstances.

**Certification Forms & Other Required Documentation:** The Human Resources designated representative is responsible for determining the completeness and authenticity of certification forms, fitness-for-duty/return to work certifications, and for review and coordination of all other City LOA documentation required by this policy.

**Supervisors & Department Directors:** So that the Human Resources designated representative can comply with deadlines outlined in this policy, supervisors must immediately notify both their Department Director and the Human Resources designated representative if they have reason to believe an employee's absence is due to a City LOA-covered reason. Supervisors must make this report even if the employee is using paid time off to cover the absence, *e.g.*, sick leave, comp time, vacation, holiday, workers' compensation, short- or longterm disability. Supervisors and Department Directors must report to Human Resources' designated representative any time an employee misses work for three or more days because of his/her own illness or injury. Supervisors and Department Directors may not contact health care providers when employees are sick. Only the Human Resources

---

designated representatives will make contact with health care providers if and when necessary.

## **VI. MEDICAL CERTIFICATION**

In all instances in which the City's designated representative requests a certification from an employee, it is the employee's responsibility to provide the Human Resources designated representative with medical certification. Failure to do so may result in the denial or delay of the City LOA.

**Certification:** An employee must provide the Human Resources designated representative with complete and sufficient medical certification supporting the need for City leave due to a serious health condition affecting the employee. The certification must set forth the beginning and expected ending dates of the leave. In the case of intermittent leave, the certification must also provide the dates and duration of the treatments necessitating the intermittent leave. The employee is responsible for any expenses associated with providing the City's designated representative with a required certification. The employee must turn in the required certification to the Human Resources designated representative within 15 days after it is requested, unless not practicable under the circumstances.

**Second & Third Opinions:** In some cases, the City's designated representative may require a second or third medical opinion (at the City's expense).

**Recertification:** With the exception of injuries or illnesses under workers' compensation or disability benefits, employees may be asked to periodically recertify the need for City LOA. The recertification must be provided within 15 days or as soon as practicable under the particular facts and circumstances. The employee is responsible for any expenses associated with providing the City's designated representative with any required recertification.

a. **30-day rule:** The City's designated representative may request recertification no more than every 30 days and only in connection with an absence by the employee unless paragraphs b or c below applies.

b. **More than 30 days:** If the certification indicates that the minimum duration of the condition is more than 30 days, the City's designated representative will wait until that minimum duration expires before requiring a recertification, unless paragraph c below applies.

c. **Less than 30 days:** The City's designated representative may request recertification in less than 30 days if the employee requests an extension of leave,

---

circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications, a pattern of unscheduled absences), or the City's designated representative receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

**VII. Fitness-for-Duty/Return to Work Certification:** The City's designated representative may refer an employee for a medical exam upon his/her return to duty and determination that such an exam is necessary in accordance with City policy. The certification must specifically address the employee's ability to perform his/her essential job functions but is limited to the particular health condition that caused the employee's need for the City LOA. The Human Resources designated representative may contact the employee's health care provider for purposes of clarifying and authenticating the fitness-for-duty/return to work certification.

The employee is responsible for any expenses associated with providing the City with the required certification and is not entitled to be paid for the time or travel costs spent in acquiring the certification. The City will not require second or third opinions of fitness-for-duty certifications. The Human Resources designated representative will schedule the fit-for-duty exam and the employee must successfully complete this exam in order to return to full duty.

An employee who fails to timely provide the City's designated representative with the required certification will not be allowed to return to work. An employee who exhausts all available leave and does not provide the required fitness-for-duty certification is no longer entitled to job reinstatement and may be subject to disciplinary action. The City is permitted to authenticate/clarify the physician's certification that the employee is fit for duty, and is permitted to require the employee to submit to a medical exam in order to determine that s/he can safely perform his/her job duties, particularly when objective evidence exists that the employee is experiencing side effects related to the medication that interferes with the employee's ability to perform essential job duties.

Employees in positions requiring a post job offer physical ability test may be required to complete and pass the fit-for-duty physical ability test prior to returning to work from a City leave if the leave was due to the employee's serious medical condition. While the City will not require a fitness-for-duty certification to return to duty for each absence taken on an intermittent or reduced leave schedule, it will require a fitness-for-duty certification up to once every 30 days if reasonable safety concerns (*i.e.*, a reasonable belief of significant risk of harm to the employee or others) exist as to the employee's ability to perform his/her duties, based on the serious health condition for which the employee took leave.

---

**VIII. Failure to Provide Certifications & Deficient Certifications:** If an employee fails to provide a required certification within 15 days after the date of the written request by the City's designated representative, the City's designated representative may deny leave until the certification is provided. If the employee never produces the certification or recertification, the employee is not eligible for City LOA protection. If the certification is incomplete or insufficient, the Human Resources designated representative will notify the employee, in writing, and advise the employee what additional information is required. The City's designated representative will provide the employee with seven additional days from the date the Human Resources designated representative sends written notice to cure any deficiency. If the deficiencies are not cured within the seven-day deadline, the City's designated representative may deny the taking of City LOA. The Human Resources designated representative may contact the health care provider for purposes of clarification and authentication after giving the employee the opportunity to cure any deficiencies.

**IX. INTERMITTENT LEAVE**

An eligible employee may take City leave on an intermittent or reduced schedule basis, only if medically necessary, for planned medical treatment, or as otherwise approved by the Department Director.

**Notice:** The employee must inform the City's designated representative of the reasons why the intermittent or reduced leave schedule is necessary and of the schedule for treatment, if necessary.

**Scheduling Planned Medical Treatment:** When an employee intends to take leave for planned medical treatment for him/herself, the employee is expected to consult with his/her supervisor and try to schedule the treatment so as not to unduly disrupt the City's operations, subject to the approval of the treating health care provider. This should be done prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employee and the City.

**Temporary Transfer:** The City may, at its sole discretion, temporarily transfer the employee to an alternative position (with equivalent pay and benefits, but not necessarily equivalent duties) in order to better accommodate an employee's intermittent or reduced leave schedule. Temporary transfers must be pre-approved by Human Resources.

**Minimum Increments:** Intermittent leave, including time away from work for less than a full shift, will be counted as full days so that any leave hours used will be counted as full days against the 90 calendar days of City leave.

---

**Exempt Employees:** Exempt employees using unpaid intermittent or reduced schedule City leave may be docked for absences of less than one day without jeopardizing their exempt status under the Fair Labor Standards Act (FLSA).

## **X. CONTINUATION OF BENEFITS**

**Group Health Insurance:** During any period of City LOA, the City will continue to pay its portion, if any, of any group insurance coverage for the employee on the same terms as if the employee had continued to work. Where applicable, the employee must timely pay his or her share of insurance premiums while on City LOA. The City's designated representative will advise the employee of the terms and conditions for making such payments. Failure to pay premiums in a timely manner will result in suspension of group coverage until the employee makes the payments or returns to work. The City may recover premiums it paid to maintain coverage for an employee who fails to return to work from City LOA, unless the employee is unable to return due to a serious health condition or another reason beyond the employee's control. Medical certification is required under such circumstances.

**Other Benefits:** The employee's use of City LOA will not result in the loss of any employment benefits that accrued prior to the start of the employee's leave, and seniority will not be affected while on City LOA. However, benefit accruals such as vacation and sick leave may be suspended during any unpaid leave.

**Holidays:** When an employee takes a full work week of C i t y L O A and a holiday occurs within that week, the full week (7 days) is counted against the 90 allowed calendar days.

**TMRS:** Contributions to TMRS will cease when an employee on unpaid leave ceases to receive a paycheck from the City and will resume after the employee returns to a paid status.

## **XI. JOB RESTORATION AFTER CITY LOA**

Upon return from City LOA, an employee will normally be restored to his/her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions. An employee, however, has no greater right to reinstatement than if he/she had been continuously employed during the period of City LOA. Further, the City may delay restoration to original jobs for employees who fail to timely provide a fitness-for-duty certification to return to work.

---

**XII. OTHER EMPLOYMENT DURING CITY LOA PROHIBITED**

Under no circumstances may an employee on a City LOA, sick leave, disability leave, or workers' compensation leave engage in outside employment unless expressly authorized in writing in advance by the Department Director, Human Resources Director and the City Manager.

**XIII. FRAUD**

An employee who fraudulently obtains City leave is not protected by the City LOA's job restoration or maintenance of benefits provisions. Further, an employee who commits fraud will be subject to disciplinary action up to and including termination from City employment.

**XIV. ILLEGAL PRACTICES**

Legitimate City LOA absences must not be counted against employees under attendance policies unless the employee fails to submit required medical certification when requested to do so and only upon consultation with Human Resources. The taking of approved City LOA may not be used as a negative factor in disciplinary actions, performance evaluations or promotions.