

I. STATEMENT OF POLICY

The City of Visalia will provide family and medical care leave for eligible employees, in accordance with the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

II. DEFINITIONS

- A. “12-Month Period” - means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

- B. “Child” - means a child under the age of 18 years, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.

- C. “Serious health condition” - means an illness, injury impairment, or physical or mental condition that involves:
 - 1. Any period of incapacity or treatment in connection with or in consequent to a hospital, hospice or residential medical care facility;

 - 2. Any period of incapacity requiring absence from work of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider;

 - 3. Continuing treatment of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or

 - 4. Prenatal care by a health provider.

- D. “Continuing treatments” means:
1. Two or more visits to a health care provider;
 2. Two or more treatments by a health care practitioner (e.g. physical therapist) or referral from, or under the direction of a health care provider;
or
 3. A single visit to a health care provider that results in a regimen of continuing treatment under the supervision of the health care provider (e.g. medication therapy).

III. REASONS FOR LEAVE

Leave is only permitted for the following reasons:

- A. The birth of a child or to care for a newborn of an employee;
- B. The placement of a child with an employee in connection with the adoption or foster care of a child;
- C. Leave to care for a child, parent or a spouse who has a serious health condition; or
- D. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

IV. EMPLOYEES ELIGIBLE FOR LEAVE

An employee is eligible for leave if the employee:

1. Has been employed for at least 12 months; and
2. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

V. AMOUNT OF LEAVE

Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period. An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires 12 months after the birth or placement.

VI. EMPLOYEE BENEFITS WHILE ON LEAVE

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City of Visalia's group health insurance to the same extent that coverage is provided while the employee is on the job. However, employees will not continue to be covered under the City of Visalia's non-health benefit plans.

Employee's may make the appropriate contributions for continued coverage under the preceding non-health and/or dependent health benefit plans by payroll deductions or direct payments made to these plans. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City of Visalia shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City of Visalia shall have the right to recover premiums through deduction from any sums due the City of Visalia (e.g. unpaid wages, vacation pay, etc.).

VII. SUBSTITUTION OF PAID ACCRUED LEAVES

If an employee requests leave for any reason permitted under this policy, he/she must exhaust all accrued leaves (except sick leave) in connection with the leave. The exhaustion of accrued leave will run concurrently with the leave under this policy.

If an employee requests leave for his/her own serious health condition, in addition to exhausting accrued sick leave, the employee must also exhaust accrued sick leave.

VIII. MEDICAL CERTIFICATION

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition, must provide written certification from the health care provider of the individual requiring care. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of his/her position.

If the City of Visalia has reason to doubt the validity of a certification, the City of Visalia may require a medical opinion of a second health care provider chosen by the City of Visalia. If the second opinion is different from the first, the City of Visalia may require the opinion of a third provider jointly approved by the City of Visalia and the employee. The opinion of the third provider will be binding.

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

IX. EMPLOYEE NOTICE OF LEAVE

Although the City of Visalia recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, **at least 30 days notice** is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed.

If the City of Visalia determines that the employee’s notice is inadequate or the employee knew about the requested leave in advance of the request, the City of Visalia may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

X. REINSTATEMENT UPON RETURN FROM LEAVE

Upon expiration of leave, an employee is entitled to be restored to the position of employment held when the leave commenced, or to an equivalent position.

As a condition of restoration of an employee whose leave was due to the employee’s own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of restoration.

XI. REQUIRED FORMS

Employees must fill out the following applicable forms in connection with leave under this policy:

1. “Request for Family or Medical Leave Form” prepared by the City of Visalia to be eligible for leave;
2. Medical certification - either for the employee’s own serious health condition or for the serious health condition of a child, parent or spouse;
3. Authorization for payroll deductions for benefit plan coverage continuation; and
4. Fitness for duty to return from leave form.