

CATEGORIES**DATE PROPOSED:** 11/8/18**DATE OF VOTE:** 1/16/19**ACCEPT (Y/N):** Y

In accordance with the Family and Medical Leave Act (FMLA), the Municipal Ice Complex (MIC) will grant job-protected, unpaid family and medical leave to eligible employees for up to 12 weeks (or 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) per 12 month period for any one or more of the following reasons:

1. In order to care for a child following the child's birth, adoption, or placement in foster care with the employee. This leave must be taken within the 12-month period immediately following the child's birth or placement with the employee;
2. In order to care for an immediate family member (spouse, child, or parent) with a serious health condition;
3. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position; or
4. The employee must attend to a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces.

To be eligible for FMLA, an employee must have worked for the MIC for at least one year and have completed 1,250 hours over the 12 months prior to the commencement of the leave. The 12 month period during which an eligible employee may take up to 12 weeks of unpaid leave will be calculated using the eligible employee's service anniversary date.

The following guidelines govern the administration of the FMLA program:

1. All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HRD. When the need for the leave is foreseeable, the employee must provide the MIC with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need or the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the MIC's usual notice and procedural requirements for requesting leave, absent unusual circumstances.
2. When scheduling medical treatment, the employee must make a reasonable effort to schedule the leave so as not to unduly disrupt the MIC's operations.
3. Within five business days after the employee has provided notice of a need for FMLA, the HR manager will complete and provide the employee with the DOL Notice of Eligibility and Rights. Also within five days, the MIC will provide written notice stating whether the employee is eligible for FMLA leave, and if not eligible, at least one reason why not.
4. FMLA may be taken in increments as small as one hour. FMLA may also be taken intermittently (a few days or a few hours at a time) or on a reduced leave schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill servicemember) over a 12 month period. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave. An employee may not take intermittent leave following the birth or placement of a child except at the discretion of the HRD.

5. Employees will be required to use accrued paid leave (including PTO, compensatory time and workers' compensation) before taking an additional period of unpaid leave so that the total paid and unpaid leave provided equals 12 weeks (or 26 weeks if combined with Servicemember Family Leave time).
6. Employees will not accrue additional paid time off while on FMLA.
7. An employee granted leave under this policy who is covered by the MIC's group health insurance plan will continue to be covered with the same conditions as if the employee had been continuously employed during the leave period. Employee contributions will be required as usual throughout the leave period. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave. If the employee fails to return from FMLA for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within 30 days of failure for either reason), the MIC will require reimbursement from the employee for the portion of the premiums paid by the MIC on behalf of that employee (employer contribution) during the period of leave.
8. The MIC may require a second or third opinion (at its own expense), periodic reports on status and intent to return to work, and, for those taking FMLA for a personal illness, a medical certification of fitness for duty. Failure to provide a medical certificate of fitness for duty may result in a denial of job reinstatement until medical certificate of release is provided.
9. FMLA fraud will incur consequences up to and including termination. FMLA fraud occurs when an employee takes FMLA leave for purposes other than those permitted under the FMLA. Examples of FMLA fraud include an employee taking FMLA leave and working for another employer, performing same or similar duties that the employee's FMLA medical certification form says he or she is not able to perform; or engaging in off-duty activity, while on FMLA leave for one's own serious health condition, that is inconsistent with the limitations the serious health condition imposes.
10. The employee's restoration rights are the same as they would have been had the employee not been on leave. If the position would have been eliminated or the employee would have been terminated but for leave, the employee does not have the right to reinstatement upon return from leave.
11. If the employee fails to return to work by the previously agreed upon date, in absence of further communication, he/she will be considered to have abandoned the job.

Please see the DHR for more detailed information regarding military status, qualifying exigencies, various medical requirements, required documentation, clarification of definitions, or other specific questions.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.