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**ARA 3.06  
LEAVES**

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**Auditor's Office Administrative Rule Information and History**

Questions about these administrative rules may be directed to the [Auditor's Office's Operations Management Division](#).

These rules were originally adopted by the City Auditor on December 11, 2017, and are adapted from [City of Portland Human Resources Administrative Rules](#), as noted below.

Chapter II is based on Auditor's Office Administrative Rule 6.01 - General and Administrative Leaves of Absence; Reasonable Accommodation Leave, which was revised by the City Auditor as an interim rule on October 5, 2020.

Revised and adopted by the City Auditor as ARA 3.06 on *December 23, 2022*.

## CHAPTER I: DEFINITIONS

For purposes of this rule, unless the context or applicable law require otherwise:

- A. "Authorized health care provider" means a health care professional who meets the definition of attending physician in [Oregon workers' compensation laws](#).
  
- B. "Catastrophic illness" means:
  - 1. *For an employee:* A non-occupational illness, injury, or physical or mental condition of such serious nature as to require a long-term absence from work. While a chronic illness or injury that results in intermittent absences from work may be considered catastrophic, eligibility for catastrophic leave under such circumstances is determined on a case by case basis.
  
  - 2. *For a family member of an employee:* An illness, injury, or physical or mental condition that is of such serious nature as to require long-term and/or full-time care by the employee.
  
- C. "Disaster" is defined by Oregon law (ORS 401.378) or when applicable, by another U.S. state or territory.
  
- D. "Domestic Partnership" means registered domestic partnership under state law, or a partnership satisfying the following criteria:
  - 1. Both partners are 18 years of age or older and share the same permanent address and household;
  - 2. Each partner is the other's exclusive domestic partner and intends to remain so for the rest of their life;
  - 3. Neither partner is married to anyone else;
  - 4. The partners are not blood related to a degree that would bar marriage in their state of permanent residence;
  - 5. Both partners were mentally competent to enter a contract when the domestic partnership began; and

6. The partners are jointly responsible for their common welfare, including the providing and/or payment of basic living expenses such as food, shelter and other life necessities.

Employees must file either an [Affidavit of Benefit Eligible Dependent Status](#) or a [Statement of Domestic Partnership for Non-Health Benefits](#) to receive City benefits such as catastrophic leave, bereavement leave, or family medical leave for their domestic partner. The Auditor's Office recognizes domestic partnerships without regard to the sex or gender of the partners.

E. "Family member" means:

1. *For purposes of protected sick time (unpaid):* The employee's spouse, registered domestic partner, custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent, stepparent, parent-in-law (including the parent of a registered domestic partner), grandparent or grandchild, or a person with whom the employee is or was in a relationship of "in loco parentis." "Family member" also includes the biological child, adopted child, foster child, or stepchild of an employee or the employee's registered domestic partner. An employee's child in any of these categories may be either a minor or an adult at the time protected sick time is taken.
2. *For purposes of catastrophic leave:* The employee's spouse / domestic partner, parent, parent-in-law, child, or other person for whom the employee is legal guardian.

- F. "Foster care," for purposes of City Paid Parental Leave, means a new, temporary living arrangement in the employee's home for a minor child, provided through a state-certified foster care program. Foster care involves a minor child who is in the legal or physical custody and care of the State being placed in the employee's home by or with the agreement of the State. Although a child may be placed in foster care with a relative, to be eligible for City Paid Parental Leave, State action involving the removal of the child from parental custody is required.

- G. "Immediately following discharge" means within the reporting to work timeline specified in the [Uniformed Services Employment and Reemployment Rights Act of 1994](#).
- H. "Industrial accident leave" and "workers' compensation supplement" mean a paid income supplement payable to eligible employees for injuries or diseases that are accepted under the provisions of Oregon workers' compensation law. The leave / supplement is paid in addition to temporary disability benefits for those days an employee is authorized by the employee's attending physician to be off work as a result of an accepted workers' compensation claim.
- I. "In loco parentis" mean a relationship similar to that of a parent, in which a person has day-to-day responsibilities to care for or financially support a child.
- J. "Medically stationary" means that no further material improvement would reasonably be expected from medical treatment or the passage of time. An entitlement to workers' compensation supplemental benefits ends upon reaching medically stationary status.
- K. "Pattern of abuse" includes but is not limited to repeated use of unscheduled sick time on or adjacent to weekends, holidays, vacation days, or paydays.
- L. "Qualified emergency worker" means Emergency Coordination Center and Bureau Operations Center responders, as well as other City employees with specialized skills or training needed in an emergency.
- M. "Serious health condition," for purposes of family medical leave, is defined in the [Definition of a Serious Health Condition](#).
- N. "Sick leave" means an employee benefit that compensates an employee during an absence from work for an authorized reason, at the employee's regular rate of pay, without reductions in other employee benefits.

*For workers' compensation purposes: "Sick Leave" means the equivalent to an*

employee's full wages that are payable to the employee in accordance with [Chapter V: Sick Leave and Protected Sick Time](#) for injuries and illnesses that are not covered by workers' compensation insurance.

- O. "Sick time" or "protected sick time" means an unpaid absence from work for an authorized reason, without a reduction in other employee benefits. An employee may not be disciplined for using protected sick time in accordance with this rule.
- P. "Temporary disability benefits" means workers' compensation benefits paid by the City's Risk Management Division for lost wages pursuant Oregon law (ORS Chapter 656 – Workers' Compensation).
- Q. "Workers' compensation-related leave" means retroactive payments or payroll made by the Auditor's Office after a claim has been accepted, which are not charged against the employee's workers' compensation supplement credits, for the following authorized absences:
  - 1. The first three days following an injury or illness claimed as a workers' compensation claim.
  - 2. Periods of up to four hours of absence to attend any one medical appointment for a medical condition accepted under a workers' compensation claim that has been verified by the health care provider.

## **CHAPTER II: GENERAL AND ADMINISTRATIVE LEAVES OF ABSENCE; REASONABLE ACCOMMODATION LEAVE**

### **A. General Leaves of Absence**

The City Auditor may grant an Auditor's Office employee a leave of absence upon a showing of good cause.

1. No employee may be granted a general leave of absence for more than 12 months in any five-year period. Unless otherwise required by law, a leave of absence for a general or personal reason may be no more than 12 months from the beginning date of the approved leave.
2. For a general or personal leave of absence, there are no automatic position return guarantees. The City Auditor may, however, hold the employee's position open pending their return at the conclusion of the leave of absence. The commitment for such a "held" position must be in writing, signed by the City Auditor, and provided before the general leave of absence commences.
3. Employees must exhaust all appropriate accrued leave before going on unpaid leave, except in accordance with [Chapter VI: Family Medical Leave](#) and [Chapter IX: Military Leave](#).

### **B. Temporary Leaves of Absence During an Emergency or Fiscal Crisis**

Consistent with the City's Safety Net Program's Temporary Leave Program, during an emergency or fiscal crisis, the City Auditor may enter into written agreements with Auditor's Office employees to allow such employees to take temporary, extended unpaid leave, with continued healthcare coverage paid by the Auditor's Office for up to 12 months.

1. An employee taking a temporary leave of absence pursuant to this Section is not required to exhaust accrued leave prior to going on unpaid leave.
2. An employee must have Division Director approval to enter into an agreement for

a temporary leave of absence. The City Auditor, in conjunction with the Division Director and employee, will determine the duration of the temporary leave.

3. The City Auditor may agree, in writing, to hold the employee's position open pending their return at the conclusion of the leave of absence.
4. At any time during a temporary leave of absence, the Auditor's Office may recall the employee to work. Failure to return to work as directed shall be considered a voluntary separation from City service.

### **C. Administrative Leave**

The City Auditor may place an employee on administrative leave for up to 60 calendar days to remove the employee from the workplace due to concerns about workplace safety or during an investigation that may lead to termination.

1. The City Auditor may approve administrative leave for up to 10 calendar days during the seven-day notice period prior to the effective date of a proposed termination.
2. Administrative leave will not be extended unless approved by the City Auditor.
3. Under some limited circumstances, administrative leave may be unpaid. Any unpaid administrative leave must be approved by the City Auditor.
4. Placement of an employee on administrative leave is not a disciplinary action.

### **D. Reasonable Accommodation Leave**

1. If an employee needs leave for a qualifying health condition, it is strongly recommended that the employee first use Family Medical Leave, if eligible.
2. If an employee's Family Medical Leave is exhausted and additional leave is needed, or if an employee is ineligible for Family Medical Leave, Operations



Management may approve a leave of absence as a reasonable accommodation pursuant to the process in [Auditor's Office Administrative Rule 3.02 – Equal Employment, Chapter IV: Reasonable Employment Accommodations](#). As part of the interactive process required to approve reasonable accommodation leave, Operations Management will engage relevant stakeholders, on an as-needed basis, as provided in Rule 3.02.

3. An employee on ADA reasonable accommodation leave must exhaust all appropriate accrued paid leave before going on unpaid leave. Employees may not reserve paid leave accruals for future use.
4. Before returning to work, an employee on ADA reasonable accommodation leave must provide a release to work letter from their medical provider. If the medical provider notes work restrictions, Operations Management will engage in an interactive process with the employee to determine whether the work restrictions can be reasonably accommodated.
5. The Auditor's Office will provide employment protection for an employee using ADA reasonable accommodation leave to the extent required by the law. ~~The Auditor's Office will hold the employee's original job position for the length of the leave, unless it becomes an undue burden to do so.~~
6. An employee on ADA reasonable accommodation leave may not work elsewhere, including volunteer activities, without prior approval from Operations Management.
7. An employee using approved ADA reasonable accommodation leave is not subject to progressive discipline, negative ratings in a performance evaluation, or other adverse employment actions for use of the leave, because the employee requested ADA leave, or because the employee is or is perceived to be disabled. However, employees using ADA reasonable accommodation leave are still subject to nondiscriminatory employment actions, such as discipline or a layoff, which would have been taken without regard to the employee's leave.

## **E. Separation from Employment**

1. An employee granted a general leave of absence or administrative leave will be considered separated from the City as a voluntary quit if there is no vacant position to return to at the expiration of the leave, unless the City Auditor agreed to hold their position open in accordance with Section A or Section B. This provision does not apply to employees who are granted ADA reasonable accommodation leave.
2. Any employee who fails to return to duty at the end of their approved general or administrative leave will also be treated as a voluntary quit. If the original general or administrative leave of absence was approved for less than 12 months, the City Auditor may approve an extension, in writing, if the total leave does not exceed 12 months.
3. Any employee wishing to return after separation may pursue reinstatement, if applicable, or hire through the competitive process.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.01 – General and Administrative Leaves of Absence](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

## CHAPTER III: HOLIDAYS

### A. Observed Holidays

1. The Auditor's Office observes the following holidays as paid holidays:

HOLIDAY	DATE OBSERVED
New Year's Day	January 1
Martin Luther King, Jr. Day	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Juneteenth Day	June 19
Independence Day	July 4 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday in September
Veterans Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Friday after Thanksgiving Day	4 <sup>th</sup> Friday in November
Christmas Day	December 25

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2. The Auditor's Office will remain open the day preceding any holiday, except the Friday after Thanksgiving Day or when the holiday is on a Monday. Employees who wish to have additional time off around a holiday must use vacation or other accrued leave, in accordance with Auditor's Office rules.

### B. Rolling (Weekend) Holidays

Four holidays are considered rolling holidays when they fall on a Saturday or a Sunday and the City observes them on the prior Friday or following Monday: Juneteenth, Independence Day, Veteran's Day, Christmas, and New Year's Day. The City observes rolling holidays on the prior Friday or following Monday.

1. *For employees who work Monday through Friday, with Saturday and Sunday off:* If a rolling holiday falls on a Saturday, the Friday before the rolling holiday will be considered a holiday and paid as such. If a rolling holiday falls on a Sunday, the following Monday will be considered a holiday and paid as such.

2. *For employees who have variable workweek schedules, with either Friday or Monday as a regular day off.* If a rolling holiday falls on the employee's first scheduled day off, the day before the rolling holiday will be considered a holiday and paid as such. If a rolling holiday falls on the employee's second scheduled day off, the first scheduled workday after the rolling holiday will be considered a holiday and paid as such.
3. *For employees with other variable workweek schedules:* If a rolling holiday falls on the employee's first scheduled day off, the day before the rolling holiday will be considered a holiday and paid as such. If a rolling holiday falls on the employee's second or third scheduled day off, the first scheduled workday after the rolling holiday will be considered a holiday and paid as such.
4. *For job-share and part-time employees who have either Friday or Monday as regular days off.* If a rolling holiday falls on the employee's first scheduled day off, the day before the rolling holiday will be considered a holiday and paid as such. If the rolling holiday falls on the employee's second scheduled day off, then the first scheduled workday after the rolling holiday will be considered a holiday and paid as such.

### **C. Holiday Pay**

1. If an employee's scheduled day off falls on a holiday that is not a rolling holiday listed in Section B, the employee will receive a deferred paid holiday, to be taken at the mutual convenience of the employee and their supervisor. Employees may carry over up to two deferred holidays. Any deferred holidays over two not taken as of the end of the first pay period in January will be forfeited.
2. Holiday pay will correspond to the employee's regular work schedule. For example, if an employee is scheduled to work ten hours on a holiday, the holiday pay will be ten hours; if an employee is scheduled to work four hours on a holiday, the holiday pay will be four hours.

#### **D. Employees Not Eligible for Holiday Pay; Job Sharing and Part-Time Employees**

1. Retirees, and temporary and seasonal employees appointed less than two weeks before a holiday, are not eligible for holiday pay.
2. Benefits-eligible employees who share a budgeted full-time position and serve for 40 hours each pay period may receive four hours of compensation for each observed holiday.
3. Permanent part-time employees may receive prorated holiday pay or prorated deferred holiday hours. Compensation is based on an employee's average weekly work hours.

#### **E. Compensation for Work on Holidays**

1. Employees who are classified as exempt under the Fair Labor Standards Act should not be directed or authorized to work on a holiday, except in unusual circumstances in which their presence at work is critical. Exempt employees who work on a holiday will receive a deferred holiday.
2. An employee who is covered by the Fair Labor Standards Act (non-exempt) and who is required to work on a holiday is entitled to holiday premium pay at one and one half times their regular rate of pay for actual time on the job, plus pay for eight hours at the regular rate.

#### **F. Deferred Holidays**

1. A deferred holiday must be taken at the mutual convenience of the employee and their supervisor. Any deferred holidays over two not taken as of the end of the first pay period in January will be forfeited. An employee who leaves City employment for any reason will not receive pay for unused deferred holidays.
2. When an employee is transferred permanently, by promotion or otherwise, from the Auditor's Office to a City bureau or to the Auditor's Office from a City bureau, any deferred holidays become the obligation of the office to which the employee transfers.

## **G. Personal Holidays**

1. Full-time employees are entitled to three personal holidays (24 hours) per year, in addition to observed holidays. No employee may receive more than three personal holidays in one calendar year. New employees will be credited with three personal holidays after 30 days of continuous service.
2. Benefits eligible permanent part-time employees and job share employees who serve for 40 hours each pay period may receive 12 hours of personal holiday time after 173 hours of continuous job sharing or part time employment.
3. Personal holidays are maintained in a separate quota account and will be added to each eligible employee's personal holiday account at the end of the first pay period in January of each year.
4. A personal holiday may be scheduled, at the mutual convenience of the employee and the Division, after a continuous City service period of not less than 30 days (or corollary length of time for part-time and job share employees), through the last pay period of the calendar year. Personal holidays must be used in the year accrued and cannot be carried over to the next calendar year.
5. An employee who leaves City employment for any reason will not receive pay for unused personal holidays.

## **H. Veterans Entitled to Veterans Day Off**

Eligible veterans who are otherwise scheduled to work on Veterans Day may request the day off. Such requests must be made at least 21 calendar days prior to the holiday and must include documents showing that the veteran is eligible for Veterans Day off.

1. To be eligible for Veterans Day off, a veteran must have served on active duty in the Armed Services for at least six months and received a discharge under honorable circumstances. Service in the reserves or National Guard does not

qualify unless the veteran was deployed or served on active duty for at least six months.

2. The eligible veteran's supervisor must respond to the request at least 14 days prior to Veterans Day. The response must state whether the request is being granted and whether the day off will be paid or unpaid.
  - a. The supervisor may not deny the request except on a showing of significant disruption or undue hardship.
  - b. If denied, the veteran is entitled to another day off within the year.
3. Pay status for the day off is governed by this rule.

#### **I. Religious Observances**

1. Managers should attempt to accommodate employee requests to be away from work for religious holiday observances. Such time off must be charged to vacation, a personal holiday, management leave, or compensatory time off, or if no leave available, as unpaid leave.
2. The Auditor's Office is not required to make an accommodation if to do so would result in undue hardship for the office or its employees. The Auditor's Office will consult with legal counsel in making a determination that an undue hardship exists.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.02 - Holidays](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

## CHAPTER IV: VACATION

### A. General

1. Eligible Auditor's Office employees accrue vacation leave from the first day of employment. Vacation leave accrues biweekly, in conformity with the payroll period.
2. With supervisor approval, accrued vacation leave may be taken in accordance with this rule and Division work rules. While on vacation leave, Auditor's Office employees may not perform service for the Auditor's Office for compensation in any other capacity.
3. No person employed on a seasonal basis, temporarily employed in a non-budgeted position, or employed as a consultant or expert on a contract basis may accrue vacation leave.

### B. Computing Vacation Leave

1. The rate of vacation leave accrual depends on the employee's years of total service for the City, whether or not consecutive. In addition, a newly hired employee will be credited for relevant prior professional experience. Total service for the City includes:
  - a. Time taken while on leave of absence without pay for military service or family medical leave.
  - b. Time under temporary appointment considered upon permanent appointment to City service and employment by Prosper Portland.
  - c. Any continuous absence because of injury in the line of duty.

Except as provided in Subsection B(1)(c), total service excludes time in City service for which an employee receives pension benefits.



2. If an employee will attain a number of years of total service in a calendar year, then beginning on January 1 of that year, the employee's vacation leave will accrue at the rate indicated on the vacation appropriation schedule for those years of total service.

Example: A full-time employee who will attain three years of service in October 2020 will accrue 4.77 hours of vacation per pay period beginning on January 1, 2020.

3. The vacation appropriation schedule for full-time employees is set forth in Section C. Part time employees who serve at least 40 hours but less than 72 hours per pay period accrue pro-rated vacation leave in accordance with the percentage of full-time work.
4. Benefits eligible job-share employees who share a full-time position and serve for 36-40 hours each pay period accrue one-half the vacation leave accrual rates indicated for full time employees in the vacation appropriation schedule. For part-time and benefits eligible job-share employees, the progression to higher accrual rates is based on years of total service, as indicated for full time employees in the vacation appropriation schedule, without regard to actual hours worked.

**C. Vacation Appropriation Schedule – Full-Time Employees** (effective 1/10/2019)

<u>Years of Service</u>	<u>Hours Accrued by Pay Period</u>	<u>Annual Accrual</u>
0	4.31	112.06
1	4.47	116.22
2	4.62	120.12
3	4.77	124.02
4	4.93	128.18
5	5.08	132.08
6	5.24	136.24
7	5.39	140.14
8	5.54	144.04
9	5.70	148.20

10	5.85	152.10
11	6.00	156.00
12	6.16	160.16
13	6.31	164.06
14	6.47	168.22
15	6.62	172.12
16	6.77	176.02
17	6.93	180.18
18	7.08	184.08
19	7.24	188.24
20	7.39	192.14
21	7.54	196.04
22	7.70	200.20
23	7.85	204.10
24	8.00	208.00
25	8.16	212.16
26 or more	8.31	216.06

#### **D. Vacation Leave Use and Carry-Over**

1. Full-time employees may use vacation leave after one month of continuous employment. Part-time employees may use vacation leave after 173 hours of continuous part-time employment. Benefits eligible job-share employees may use vacation leave after 173 hours of continuous job-sharing employment.
2. Employees are expected to take vacation leave during the calendar year in which the leave is earned, or during the calendar year following the year in which the leave was earned. Vacation leave may be accumulated up to a maximum of two year's earnings as of the end of the first pay period in January (the accrual amount is based on the employee's accrual rate at the end of the first pay period in January).

#### **E. Separation from Service; Transfers**

1. All accrued, unused vacation leave must be paid out, as part of the final paycheck, to an employee who leaves City service for any reason. Employees who are leaving City service may not elect to use accrued vacation leave, instead of having their vacation leave paid out, to extend their employment with the City. For example, if an employee states they wish to resign at some date in the future but use accrued vacation leave until that date, the request must be denied.
2. When an employee is transferred permanently, by promotion or otherwise, from the Auditor's Office to a City bureau or to the Auditor's Office from a bureau, the employee's vacation leave becomes the obligation of the office to which the employee transfers.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.03 – Vacation](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 13, 2019.

## CHAPTER V: SICK LEAVE AND PROTECTED SICK TIME

### A. Purpose

The Auditor's Office provides time off for employees for certain health-related reasons, in accordance with City Code, Auditor's Office administrative rules, and state and federal laws. This rule and [Chapter VI: Family Medical Leave](#) highlight the requirements that apply to such absences. In the event of any conflict between this rule and applicable law, the law will apply.

This rule is consistent with [City Human Resources Rule 6.04 \(b\) – Sick Leave](#) (covering sick leave) and [City Human Resources Rule 6.04 \(a\) – Sick Leave](#) (covering protected sick time), but combines and summarizes the City rules for easier reference.

### B. Sick Leave (Paid) and Protected Sick Time (Unpaid) - General Rules

1. Employees must follow Division rules for reporting absences.
2. When an employee uses sick leave or protected sick time for a foreseeable absence:
  - a. The employee must provide advance notice of the planned absence as soon as practical.
  - b. The employee must make a reasonable effort to schedule the absence in a manner that does not unduly disrupt Auditor's Office operations.
3. The use of sick leave or sick time is prohibited when an employee is unable to perform work because of the use of alcohol, cannabis, or an illegal drug not prescribed by a licensed physician. Sick leave or sick time may be authorized for absences because of a documented illness or treatment resulting from the misuse of alcohol or drugs.
4. An absence because of an injury not in the line of duty will be treated as an absence because of sickness.

5. Employees with accrued and unused sick leave or sick time may be medically laid off in accordance with [Auditor's Office Administrative Rule 3.07 – Employee Movement, Chapter VI: Medical Layoff](#).
6. No employee using sick leave or sick time may engage in other employment during the absence, without the prior written approval of the City Auditor. Engaging in other employment while on sick leave or sick time or without approval will be considered an abuse of sick leave and may subject the employee to disciplinary action.

### **C. Accruing Sick Leave (Paid)**

1. Benefits-eligible Auditor's Office employees begin to accrue paid sick leave on their first day of employment.
  - a. Employees assigned to a 40-hour workweek accrue sick leave at the rate of four hours per biweekly payroll period (104 hours per year).
  - b. Benefits-eligible part-time employees who serve at least 40 hours but less than 72 hours each pay period accrue pro-rated sick leave in accordance with the percentage of full-time work.
  - c. Benefits-eligible job-share employees who share a budgeted full-time position and serve a minimum of 36-40 hours each pay period accrue sick leave at one-half the full-time rate.
2. Seasonal appointments and persons employed as consultants on a contract basis are not entitled to sick leave. Seasonal appointments may be entitled to use unpaid protected sick time.
3. Employees do not accrue sick leave for working overtime or for any shift off without pay, except as provided for under workers' compensation.

4. Unused accrued sick leave is not paid to an employee when the employee separates from City employment.
5. A City employee who is laid off or resigns and is subsequently re-employed within three years is entitled to credit for all sick leave accrued up to the date of the layoff or resignation. Sick leave does not accrue during the period between a layoff or resignation and reemployment.
  - a. An employee who is re-employed after a layoff or resignation of more than three years is not entitled to credit for sick leave accrued during prior City service.
  - b. An employee who is re-employed after retirement or discharge is not entitled to credit for sick leave accrued during prior City service.
6. An employee who transfers or is promoted to another full-time City position on the following workday is entitled to all sick leave accrued to the date of such transfer or promotion.
7. Sick leave accrues during the first 12 months of continuous absence because of an injury in the line of duty. If a person on a non-service connected disability status receives Fire and Police Disability and Retirement Fund benefits and vacation benefits simultaneously, no additional sick leave accrues during the period for which vacation benefits are received.

#### **D. Using Sick Leave (Paid)**

Eligible employees may use available sick leave accruals, in the amount equivalent to the time the employee is absent from scheduled duty, as follows:

1. Sick leave may be used:
  - *Full-time employees: After 30 days of full-time employment*

- *Part-time employees:* After 173 hours of continuous part -time employment
- *Job-Sharing Employees:* After 173 hours of continuous job-sharing employment.

A part-time or job-share employee who is not yet eligible to use sick leave may be entitled to use unpaid protected sick time.

2. An employee may use accrued sick leave for absences:

a. For the employee's own:

- Mental or physical illness, injury, or health condition
- Need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition
- Need for preventive medical care.

b. To recover from or seek treatment for a health condition of the employee that renders the employee unable to perform at least one of the essential functions of the employee's regular position.

c. To care for a family member who is the employee's spouse, domestic partner, parent, child, or other person for whom the employee is legal guardian, who has a:

- Mental or physical illness, injury, or health condition;
- Need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- Need for preventive medical care.

3. An employee may not use sick leave for an absence on account of sickness or injury during a period designated in advance for vacation, except upon a determination by the City Auditor that the injury or illness was of a serious

nature. The employee must notify their supervisor as soon as possible of the injury or illness and request the use of sick leave instead of vacation leave.

### **E. Verifying Sick Leave (Paid)**

1. A manager or supervisor may require a certificate from a treatment provider verifying an employee's need for sick leave on an employee's third consecutive day of absence on account of sickness.
2. On an employee's fourth consecutive day of absence on account of sickness, a manager or supervisor may inquire as to whether the absence may qualify as family medical leave. See [Chapter VI: Family Medical Leave](#).
3. Except as provided for in [Chapter VI: Family Medical Leave](#), an employee who uses dependent care leave on more than three occasions in a calendar year may be required to provide a medical certification for all subsequent use of sick child leave in the calendar year.
4. A manager or supervisor suspecting sick leave abuse may require a treatment provider's note before sick leave may be used. Each treatment provider's certification must be evaluated and approved or disapproved by the employee's supervisor.

### **F. Collecting Third Party Damages (Paid Sick Leave)**

In accordance with [Charter Section 2-608](#), Auditor's Office employees who collect damages for off-the-job injuries must reimburse the City from the damages recovered for any sick leave used as a result of such injuries. Operations Management will notify injured employees, in writing, of their obligations under this rule. The notification must state:

1. If damages are collected from a third person through a court action or settlement, the employee is obligated to repay the City the total amount paid to the employee by the City for any sick leave paid because of the employee's injury by the third



person, up to the amount collected from the third party. Such repayment must be made to the City Treasurer.

- a. Failure to make such reimbursement to the City is cause for disciplinary action.
  - b. In no event will an employee be obligated to repay the City any monies in excess of the amount of monies collected from the third person for such time loss.
2. Upon reimbursement, sick leave previously charged will be credited to the employee for future use, to the extent such repayment represents gross wages paid. No other adjustments to previous payroll records may be made.
  3. Any monies collected by the City Treasurer pursuant to this rule will be credited to the fund that was charged for the sick leave involved.

#### **G. Accruing Protected Sick Time (Unpaid)**

[Oregon law](#) guarantees all workers up to 40 hours of protected but unpaid sick time per calendar year.

1. Sick time begins to accrue on the first day of employment, and employees earn one hour of sick time for every 30 hours worked. However, Auditor's Office employees who accrue paid sick leave at a higher rate in accordance with Section C also accrue protected sick time at that same higher rate, and the first 40 hours of sick leave accrued per calendar year is protected sick time.

**NOTE:** Independent contractors, and students working for the Auditor's Office through a work-study program by a secondary or post-secondary educational institution or qualified vocational training program, are not considered "employees" for purposes of sick time.

2. Sick time is protected time, but is not paid. Unused accrued sick time is not paid

to an employee when the employee separates from City employment.

3. A City employee who leaves employment and becomes re-employed within 180 days of separation is entitled to credit for up to 40 hours of sick time that was accrued but unused during their prior City service. Any employee who is re-employed after 180 days of separation is not entitled to credit for previously accrued, unused sick time.

#### **H. Using Protected Sick Time (Unpaid)**

1. An employee may use accrued protected sick time after 30 days of full-time employment, or after 90 days of employment less than full-time.
  - a. If a new employee takes time off for health-related reasons before reaching the 31<sup>st</sup> / 91<sup>st</sup> day of employment, as applicable, the time off is not protected and is subject to Auditor's Office and Division attendance policies. However, the time off may be protected as family medical leave or under the Americans with Disabilities Act.
  - b. A City employee who leaves employment and becomes re-employed within 180 days of separation will receive credit toward the 30 / 90-day eligibility requirements for the entire period of previous employment.
2. An employee may use accrued protected sick time:
  - a. For the same reasons as sick leave (Section D).
  - b. To care for an infant or newly adopted child under 18 years of age, for a newly placed foster child under 18 years of age, or for an adopted or foster child older than 18 years of age if the child is incapable of self-care because of a mental or physical disability, as long as the absence is completed within 12 months after the birth or placement of the child.
  - c. To deal with the death of a family member by:

- Attending the funeral or alternative to a funeral of the family member
- Making arrangements necessitated by the death of the family member
- Grieving the death of the family member

**NOTE:** In certain circumstances, upon the death of a family member, an employee may be eligible for Funeral and Bereavement Leave ([Chapter XI: Funeral and Bereavement Leave](#)) and/or leave under the Oregon Family Leave Act ([Chapter VI: Family Medical Leave](#)).

- d. For certain purposes related to domestic violence, harassment, sexual assault, or stalking, in accordance with Oregon law (ORS 659A.272).
- e. Due to a public health emergency, in accordance with Oregon law (ORS 653.616(6)).

### **I. Verifying Protected Sick Time (Unpaid)**

Medical verification of an employee's need for protected sick time may only be required if:

1. The employee takes more than three consecutively scheduled workdays of sick time.
2. The need for sick time is foreseeable and is projected to last more than three consecutively scheduled workdays.
3. The employee commences sick time without providing notice required by the Division's attendance rules.
4. The Division manager or supervisor has sufficient evidence to suspect that an employee is abusing sick time, including engaging in a pattern of abuse, regardless of whether the employee has used sick time for more than three consecutive working days. Abuse of sick time is not protected time.

## **J. Protected Sick Time: Discrimination and Retaliation Prohibited**

No employee may suffer discrimination or retaliation for requesting or using protected sick time, or for complaining that they are not receiving protected sick time as required by Oregon law.

1. The Auditor's Office encourages employees to bring any concerns or complaints about compliance with this rule or Oregon's protected sick time law to the attention of their Division manager or supervisor, Operations Management, or the City Auditor.
2. Employees may file a complaint with the [Oregon Bureau of Labor and Industries \(BOLI\)](#) if they are denied sick time or are retaliated against for requesting or taking protected sick time.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.04\(a\) – Sick Leave](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

[City Human Resources Administrative Rule 6.04\(b\) – Sick Leave](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised June 25, 2019.

## CHAPTER VI: FAMILY MEDICAL LEAVE

### A. General

It is the policy of the Auditor's Office to grant protected family medical leave to eligible employees in accordance with federal and state law.

1. For purposes of this Chapter, "family medical leave" means leave pursuant to any of the following: Family Medical Leave Act, Oregon Family Leave Act, Oregon Military Family Leave Act, or City Paid Parental Leave.
2. Generally, eligible employees are entitled to up to 12 workweeks of family medical leave per calendar year, except as noted in Section C. Family medical leave is unpaid, except as noted in Section D (City Paid Parental Leave) and Section F (requiring use of accrued paid leave concurrent with protected family medical leave and before taking unpaid leave).
3. While on family medical leave, employees are subject to nondiscriminatory employment actions, such as layoff or discipline, which would have been taken without regard to the employee's leave.
4. Employees may not work elsewhere, including self-employment, while on family medical leave.

### B. Eligibility for Family Medical Leave

1. Family Medical Leave Act. To be eligible for leave under the federal Family Medical Leave Act ("FMLA"), an employee must have been employed by the City for at least 12 months and must have worked at least 1250 hours during the 12-month period immediately preceding the leave.
2. Oregon Family Leave Act. To be eligible under the Oregon Family Leave Act ("OFLA"), an employee must have been employed by the City for at least 180 calendar days immediately preceding the leave and must have worked for an

average of at least 25 hours per week during the 180 days immediately preceding the leave. However, employees are eligible for OFLA parental leave after being employed for 180 calendar days, without regard to the number of hours worked per week.

3. Oregon Military Family Leave Act. To be eligible under the Oregon Military Family Leave Act ("OMFLA"), an employee must have worked an average of 20 hours per week for the City on the date OMFLA leave begins.
4. To determine time employed and worked for family medical leave eligibility:
  - a. An employee is employed for 12 months or 180 days when the employee has been on the payroll for that period of time (regardless of hours worked and including all paid and unpaid time).
  - b. An employee's hours worked is based on actual hours worked.

### **C. Reasons for Family Medical Leave**

Family medical leave may be requested for the following reasons:

1. Parental Leave (leave to care for a child born to, adopted by, or placed for foster care with the employee). Parental leave must be taken within 12 months of the birth, adoption, or foster care placement of the child.
  - a. Under OFLA, an employee who uses 12 workweeks of parental leave is entitled to take up to 12 additional workweeks of leave to care for a child due to a non-serious health condition that requires home care (OFLA sick child leave).
  - b. The City also provides City Paid Parental Leave for up to one continuous six-week period in a calendar year, in accordance with Section D.
2. Employee Medical Leave (leave because of the employee's own serious health condition, which prevents the employee from performing their job).

- a. Employee medical leave includes pregnancy-related disability and absences from work due to prenatal care.
  - b. Under OFLA, a woman using pregnancy disability leave is entitled to up to 12 additional workweeks of leave in the same leave year for any qualifying purpose.
3. Family Care Medical Leave (leave to care for an employee's family member with a serious health condition).
- a. Under federal law, covered family members include an employee's spouse, child, parent, or step-parent.
  - b. Under state law, covered family members also include the employee's registered domestic partner, parents-in-law, grandparents, or grandchildren.
  - c. Under City policies, covered family members also include the employee's domestic partner pursuant to a completed [City of Portland Statement of Domestic Partnership](#).
4. Sick Child Leave (OFLA only) (leave to care for a minor child who is ill but does not have a serious health condition and requires home care, provided that another family member is not available to care for the child).
5. Military Caregiver Leave (FMLA only) (leave to care for an injured service member who is the employee's parent, child, or spouse, or for whom the employee is the next of kin). Such leave may be taken for up to 26 workweeks in any single 12-month period. Leave to care for a military service member, when combined with all other FMLA leave, may not exceed 26 workweeks in a single 12-month period. (The 12-month period begins on the first day of the leave and ends 12 months after that date.)

6. Qualifying Exigency Leave (FMLA only) (leave for a qualifying exigency arising out of the fact that the employee's parent, child, or spouse is on active military duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation).
  
7. Oregon Military Family Leave Act (leave for a spouse or domestic partner of a member of the Armed Forces, National Guard, or military reserve who has been called to active duty or notified of impending call to active duty, or who is on leave from active duty). An eligible employee may take a total of 14 calendar days of leave per call or order to active duty or notification of a leave from deployment.
  
8. Bereavement Leave (OFLA only) (leave to deal with the death of a family member by attending the funeral or alternative to a funeral of the family member, making arrangements necessitated by the death of the family member, or grieving the death of the family member).
  - a. Covered family members include a spouse, child, parent, registered domestic partner, parent-in-law, grandparent, or grandchild of the employee.
  
  - b. An eligible employee may take up to two weeks of leave upon the death of each family member, up to a maximum of 12 weeks of OFLA leave per calendar year.
  
  - c. Leave must be completed within 60 days of the date on which the employee receives notice of the death of a family member.
  
  - d. OFLA Bereavement Leave will not run concurrently with leave granted under [Chapter XI: Funeral and Bereavement Leave](#).

#### **D. City Paid Parental Leave**

City Paid Parental Leave may be taken to bond and care for a newborn child or a newly adopted child, or may also be taken for a new foster care placement of a child.



1. After 180 consecutive calendar days of employment, all regular, probationary, limited duration, and temporary employees in budgeted positions, including employees in classifications designated as "at will," are eligible for City Paid Parental Leave.
2. Eligible employees may receive up to one continuous period of City Paid Parental Leave, not to exceed six calendar weeks, per event. No employee may be absent on City Paid Parental Leave for more than 6 calendar weeks, regardless of work schedule or assignment.
  - a. The birth, adoption, or foster care placement of multiple children that is part of the same event (e.g., the birth of twins or the adoption or foster care placement of more than one child) does not increase the length of City Paid Parental Leave.
  - b. An eligible employee may receive City Paid Parental Leave for one event per calendar year. The City Auditor may make an exception and allow additional City Paid Parental Leave if two qualifying events occur in the same calendar year (e.g., an employee who has a second new foster care placement of a child in the same calendar year), or when extenuating circumstances exist.
  - c. Unused City Paid Parental Leave from one event may not be carried over to a future event.
3. City Paid Parental Leave must be used within twelve months following the birth, adoption, or foster care placement of a child, and can only be used for leave post-birth, adoption, or foster care placement. City Paid Parental Leave taken for the new foster care placement of a child cannot exceed the duration of the placement.
4. While on City Paid Parental Leave, the employee may not engage in any work activity for compensation, including job-related training, and may not perform service for the City for compensation in any other capacity. Engaging in a work activity or service for compensation while on City Paid Parental Leave will be

deemed an interruption of the continuous period of City Paid Parental Leave and any remaining City Paid Parental Leave approved for the event will be forfeited.

5. If an employee qualifies for FMLA or OFLA leave, City Paid Parental Leave runs **concurrently** with the FMLA / OFLA leave and must be used during the approved FMLA / OFLA parental leave.

NOTE: An employee who exhausts all available FMLA / OFLA leave for a different reason is still eligible to take City Paid Parental Leave. The City Paid Parental Leave will be considered protected for purposes of evaluating the employee's overall attendance record, even though the leave is not FMLA / OFLA.

6. While an employee is on City Paid Parental Leave, the employee's pay will be at their current rate of pay, excluding any premiums or out of class pays. No employee may receive more pay than they would have received if working.
  - a. Sick and vacation leave will continue to accrue.
  - b. Holidays observed during City Paid Parental Leave will be paid as part of the employee's City Paid Parental Leave. The holiday will be coded as City Paid Parental Leave and does not increase the allowed maximum of one continuous period of City Paid Parental Leave, not to exceed six calendar weeks, per event.
7. Unused City Paid Parental Leave does not carry over to the next calendar year and will not be paid out in cash if not used. Employees who are leaving City employment for any reason may not elect to use City Paid Parental Leave to extend their City employment with the City.

#### **E. Process for Requesting and Receiving Family Medical Leave**

Employees who request a leave of absence or who are absent for a reason that may qualify as family medical leave must comply with the requirements set forth in this

rule, and must comply with the applicable FMLA and OFLA regulations in order to obtain the protections afforded by the laws.

1. If the Auditor's Office is aware that the reason for the absence may qualify as family medical leave, the Auditor's Office will begin the eligibility and qualification process, even if the employee does not specifically request family medical leave.
2. An employee must submit a request for family medical leave to their immediate supervisor or Operations Management. The request must include enough information to make the supervisor or Operations Management aware that the employee needs or is seeking family medical leave and the anticipated timing and duration of the leave. The request must be submitted in accordance with the following timelines:
  - a. An employee seeking Oregon Military Family Leave must provide notice of the intent to take leave within five business days of receiving official notice of an impending call or order to active duty or of a leave from deployment, or as soon as practicable when official notice is provided less than five days from the commencement of leave.
  - b. An employee may commence OFLA Bereavement Leave without prior notice, but must provide verbal or written notice within 24 hours of taking leave, and must provide a completed [FMLA / OFLA Leave of Absence Application](#) to their supervisor or Operations Management within three days of returning to work.
  - c. In all other cases in which the need for leave is foreseeable (e.g., the birth of a child or planned medical treatment for a serious health condition), the employee is required to give 30 days' notice of the need for leave by submitting a [FMLA / OFLA Leave of Absence Application](#).
  - d. If the need for the leave is unforeseeable, the employee must give verbal notice of the need for leave and submit a [FMLA / OFLA Leave of Absence](#)

[Application](#) as soon as practicable after the need for leave becomes known to the employee.

3. Upon receipt of an employee's written request for leave or information indicating that an employee is requesting family leave, Operations Management will provide the employee with a written notice containing information about eligibility for family medical leave, certification requirements, use of accrued leave, health insurance coverage, and other rights and responsibilities consistent with this rule and federal and state law.
4. Once enough information is received to determine whether the absence will be designated as FMLA or OFLA leave, Operations Management will inform the employee of the amount of leave counted against the employee's leave entitlement and any requirements regarding the employee's return to work.

#### **F. Order of Leave and Use of Accrued Paid Leave During FMLA / OFLA Leave**

1. Employees are required to use accrued paid leave prior to an unpaid leave of absence, except that employees may reserve a total of 80 hours of combined vacation leave and compensatory time for future use.
2. Except as stated in paragraphs 3 and 4 below, employees must use accrued paid leave in the following order prior to a period of unpaid family medical leave: City Paid Parental Leave (if applicable), sick leave (if applicable), personal holidays, management leave, unreserved vacation, and unreserved compensatory time. Use of accrued paid leave (including City Paid Parental Leave) will run concurrently with family medical leave.
3. For Family Care Medical Leave, Military Caregiver Leave, or OFLA Sick Child Leave, an employee must first exhaust their accrued sick leave; see [Chapter V: Sick Leave and Protected Sick Time](#). Following exhaustion of sick leave, employees must exhaust personal holidays, management leave, unreserved vacation leave, and unreserved compensatory time before using any remaining sick leave or taking unpaid leave.

4. For leave covered by the Oregon Military Family Leave Act, an employee may choose to use paid or unpaid leave. If an employee chooses to use paid leave, they may choose the order in which to use the leave.
5. In no event may an employee use sick leave under this Section to extend family leave beyond 12 workweeks per calendar year.

### **G. Certification Requirements**

1. An employee's request for family medical leave due to the employee's serious health condition or to care for the employee's qualifying family member with a serious health condition requires written [medical certification](#) from a health care provider as soon as possible, but no later than 15 calendar days following a request for certification by the employee's supervisor or Operations Management.
2. An employee who uses sick child leave on all or any part of three separate days in a leave year may be required to submit a doctor's note on the fourth day or subsequent occurrence of sick child leave within the leave year. The certification may be a doctor's note, but must include the name of the child, the dates the child was sick, the opinion of the doctor that the child was sick and required home care, and the doctor's signature.
3. A copy of the military member's active duty orders is required for an employee requesting Oregon Military Family Leave. An employee requesting Qualifying Exigency Leave (FMLA) must submit a [Certification of Qualifying Exigency for Military Leave](#), including written documentation confirming the military member's call to active duty.
4. A new medical certification may be required within the leave year if:

- Circumstances described by the prior certification have changed significantly
  - The employee requests an extension of leave
  - The Auditor's Office receives information that casts doubt upon the employee's stated reason for the absence.
5. The cost of any medical verification not covered by insurance or other benefits will be paid for by the City.
  6. An employee who fails to submit a timely, fully completed certification, after being notified of the medical certification requirement, may be denied family medical leave coverage for the absence.

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#### **H. Eligible Health Care Providers**

Eligible health care providers under FMLA and/or OFLA include:

- Doctor of Medicine or osteopathy who are state licensed
- Podiatrists, dentists, clinical psychologists, optometrists, chiropractors authorized to practice in their respective states
- Nurse practitioners, direct entry midwife, nurse midwives, and clinical social workers authorized to practice under state law
- Christian Science Practitioners listed with the First Church of Christ Scientists in Boston, Massachusetts
- Any health care provider from whom the City's health plan will accept certification of the existence of a serious health condition to substantiate a claim for benefits
- Naturopaths
- Midwives
- Licensed physician's assistants
- Registered Nurse providing medical services within the scope of their license

#### **I. Intermittent / Reduced Schedule Leave**

1. Employees may take intermittent leave or work a reduced schedule when medically necessary for the employee's own serious health condition or to care for a family member with a serious health condition. An employee must make a reasonable effort to schedule treatment for a serious health condition in a manner that does not unduly disrupt Auditor's Office business.
2. Parental leave must be taken in one uninterrupted period, unless otherwise approved by the employee's supervisor. However, City Paid Parental Leave must always be taken in one uninterrupted period. Parental leave taken for the purpose of arranging the adoption of a child may be taken intermittently, except for the use of City Paid Parental Leave.
3. Oregon Military Family Leave and Qualifying Exigency Leave may be taken intermittently.
4. During a period of intermittent leave, an employee may be transferred to an alternate position (with the same pay) if the transfer is voluntary on the part of the employee.

#### **J. Continuation of Health Care Benefits**

1. If an employee is eligible and qualifies for leave under FMLA and/or OFLA, the City will maintain their group health insurance coverage during the FMLA / OFLA leave as if the employee had continued to work.
2. Any share of health plan premiums normally paid by the employee prior to leave must continue to be paid by the employee during the leave period. If the employee's failure to make the premium payment leads to a lapse in coverage, the City will, upon the employee's return to work, restore the health coverage equivalent to that which the employee would have had if leave had not been taken and the premium payments had not been missed.

3. The City may recover premiums paid for an employee's insurance if the employee fails to return after the period of leave to which the employee is entitled has expired, unless there is a continuation, recurrence, or onset of a serious health condition.
4. Employees should check with the Health and Financial Benefits office to resolve any questions regarding the continuation of health care benefits.

### **K. Return to Work**

1. Before returning to work, an employee who takes leave for their own serious health condition must provide a certification from the employee's health care provider that the employee is able to resume work. The employee must return to work on the date specified and mutually agreed upon by the parties.
2. The employee must be reinstated to their former position if the job still exists.

### **~~L. Family Members Employed by the City~~**

- ~~1. If two family members work for the City of Portland, they may take family leave (including parental leave) at the same time, unless both employees work in the Auditor's Office.~~
- ~~2. Family members employed by the Auditor's Office may take City Paid Parental Leave at the same time, but may not take other FMLA or OFLA leave (including parental leave that is in addition to City Paid Parental Leave) at the same time unless:
  - ~~a. Approved by the City Auditor;~~
  - ~~b. One employee needs to care for the other employee with a serious health condition, one employee is needed to care for a child with a serious health condition and the other employee is suffering from a serious health condition, or both employees suffer from a serious health condition; or~~~~



~~c. Both employees are taking OFLA Bereavement Leave.~~

### **M.L. Other Leaves**

1. Employees who require additional leave from work beyond the leave provided under FMLA and OFLA may request the use of any remaining accrued paid leave or unpaid leave. Such additional leave is granted solely at the discretion of the City Auditor, unless otherwise required by law, and the provisions of state and federal law governing family medical leave do not apply, including, but not limited to, continued City-paid benefits unless the employee continues in a pay status during the extension.
2. Employees may contact their supervisors regarding catastrophic leave or Long-Term Disability or to request a medical layoff.
3. A leave of absence that qualifies as an accepted workers' compensation claim or an accepted service-related disability claim may not run concurrently with family medical leave, except as required by federal law.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.05 – Family Medical Leave](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 13, 2019.

## **CHAPTER VII: SUPPLEMENTAL WORKERS' COMPENSATION BENEFITS**

### **A. Purpose; Applicability**

1. The purpose of this rule is to provide additional benefits to eligible Auditor's Office employees with accepted workers' compensation claims. These are benefits that the City has chosen to provide in addition to benefits provided under Oregon's workers' compensation laws.
2. Employees covered under the Fire and Police Disability and Retirement Fund's disability provisions, consultants not on the Auditor's Office payroll, and temporary employees employed through a temporary agency are not covered by this rule.

### **B. Employee Responsibility**

An injured employee is responsible for claiming compensation. The employee or their representative must give notice of the accident and provide an incident report to Operations Management as soon as possible and file a claim with the City's Risk Management Division. A claim is considered filed upon Risk Management's receipt of a completed [Form 801 \(State of Oregon Workers' and Employer's Report of Occupational Injury or Disease\)](#) or Form 827 (First Medical Report), which includes the employee's signature and date.

### **C. Exhaustion of Accrued Leave**

An employee must exhaust all forms of accrued paid leave, except for accrued compensatory time, before electing leave without pay during any period for which workers' compensation benefits are not paid by Risk Management due to a work-related injury or illness. This includes the first three days following an injury or illness claimed as a workers' compensation claim.

### **D. Workers' Compensation Supplement / Industrial Accident Leave**

Supplemental workers' compensation benefits for eligible Auditor's Office employees will be calculated and paid in accordance with [City Human Resources Administrative Rule 6.13 – Supplemental Workers' Compensation Benefits](#).

#### **E. Reimbursement of Overpaid Employee Benefits**

1. If the City pays an employee more than one of the benefits defined in this rule for the same day, and as a result the employee is paid more than their regular wage, the amount of overpayment will be recovered by the City under Oregon law ([ORS 652.610](#)) as a credit against future salary payments.
2. No employee should receive full wages in paid sick leave while also receiving time loss payments and/or supplemental pay on a workers' compensation claim. If an employee is paid sick leave benefits for any period of time that Risk Management has also paid time loss benefits, the employee must pay the sick leave back to the Auditor's Office.
3. If any sick leave benefits paid for any period of time are converted by the Auditor's Office to paid time off that is not deducted from the employee's sick leave or vacation benefits, Risk Management is not required to pay time loss benefits for that period of time. Time loss paid for such periods may be recovered by Risk Management as an overpayment of time loss benefits.

#### **F. Damages from a Third Party**

If an employee collects damages from a third party for an on-the-job injury or disease for which the City has paid any benefits under its workers' compensation program or other benefits outlined in this rule, the City will have a lien on any recovery of damages as provided under Oregon law ([ORS Chapter 656](#)). Any supplemental pay made on the claim will be included in the City's lien.

#### **G. Vacation and Sick Leave Credits Continue**

Vacation and sick leave credits may accrue to an employee during the first 12 months of continuous absence because of a claim accepted by Risk Management.

## **H. Leave in Excess of Maximum Accrual Hours**

An employee may carry over unused vacation to the next calendar year if due to an accepted claim they were unable to take vacation leave during a year. The excess may be used after returning to work or carried on the leave account until the end of the calendar year, at which time any excess vacation will be forfeited. However, if an on-the-job injury or disease results in a disability retirement, resignation, or medical layoff, the employee will only be paid for such accrued vacation up to the one-year maximum accrual.

## **I. Health Benefits**

Full or part-time employees eligible for benefits who file a workers' compensation claim under ORS Chapter 656 will, upon acceptance of the claim, be entitled to medical, dental, vision, and life insurance benefits for a maximum of 12 months, on the same terms and conditions, if any, that existed for the employee immediately prior to the filing of the claim. The 12-month period begins to run on the first day of temporary total disability paid by Risk Management, and continues to run continuously thereafter, regardless of whether the employee is working during all or any part of the 12-month period. Each employee with an accepted claim is entitled to only one 12-month period per claim regardless of the length of treatment, the necessity for time loss, or the occurrence of aggravations during the life of the claim.

## **J. Automatic Leave of Absence While Receiving Time Loss Benefits**

Barring resignation or dismissal from City service, an employee will be considered to be on an automatic leave of absence during any period for which the employee is receiving time loss benefits from the City. Leaves of absence on termination of time loss benefits is governed by [Chapter II: General and Administrative Leaves of Absence; Reasonable Accommodation Leave](#).

## **K. Seniority Accrual**

An employee will continue to receive seniority credit when on time loss for an accepted claim.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.13 – Supplemental Workers' Compensation Benefits](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 17, 2009.

## CHAPTER VIII: CATASTROPHIC LEAVE

### A. Purpose

Catastrophic leave is a leave-sharing program intended to allow City employees to assist other employees who, because of personal nonoccupational catastrophic illness or the catastrophic illness of a family member, expect to be on leave and whose absence will result in a substantial loss of pay. Auditor's Office employees may donate or receive accrued sick leave and/or vacation hours in accordance with the Citywide requirements set forth in [City Human Resources Administrative Rule 6.06 – Catastrophic Leave](#) and the Auditor's Office procedures set forth in this rule.

### B. Solicitation of Catastrophic Leave Donations

Donations may be solicited by the recipient employee or on the recipient employee's behalf by co-workers or their union representatives.

1. The Auditor's Office may, at the recipient employee's request, notify Auditor's Office employees that the recipient employee is eligible to receive voluntary donations, but may not solicit donations on the employee's behalf. The Auditor's Office may not release any medical information regarding the recipient employee or the recipient employee's family member, unless authorized by the employee or family member.
2. With the approval of the recipient employee, the Auditor's Office may notify catastrophic leave coordinators in City bureaus that the employee is eligible to receive donations.
3. Employees are prohibited from threatening or coercing other employees concerning any aspect of catastrophic leave, including but not limited to pressuring another employee to donate time or refuse to accept donated time

### C. Procedure for Requesting Catastrophic Leave

To request catastrophic leave:

1. An employee must submit to Operations Management a completed [Request for Catastrophic Leave form](#) and a [Medical Certification form](#) from their health care provider or the family member's health care provider verifying the catastrophic illness.
2. Operations Management will complete its portion of the request form and prepare a memo of approval from the City Auditor. If approved by the City Auditor, Operations Management will submit the forms and approval memo to Human Resources.
3. Human Resources will e-mail the donation posting and donation forms to Operations Management. Operations Management will distribute the posting and donation forms as authorized by the recipient employee.

#### **D. Administration**

The City Auditor retains the right to change, modify, or discontinue the catastrophic leave donation program at any time.

1. The City Auditor may establish necessary procedures to implement and monitor catastrophic leave, and may modify the procedures it has established as necessary.
2. The Auditor's Office retains the right to require periodic medical certification to verify catastrophic leave eligibility. Periodic updates are typically one per month. Eligibility will cease when the employee can return to work or the family member is once again able to care for themselves.
3. If the City Auditor chooses to discontinue the program, the recipient members already involved in the program will be allowed to continue using accrued donated hours unless exhausted or until no longer necessary. However, no further contributions beyond the number received by the effective date of discontinuance will be allowed.

4. Catastrophic leave is not subject to any appeal procedures provided for under Auditor's Office human resources rules or the City Charter.
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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.06 – Catastrophic Leave](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.



## CHAPTER IX: MILITARY LEAVE

### A. General

Auditor's Office employees may take military leave in accordance with the Citywide requirements set forth in [City Human Resources Administrative Rule 6.07 – Military Leave](#) and the Auditor's Office procedures set forth in this rule.

### B. Requesting Military Leave

Any Auditor's Office employee called to active duty must notify their Division manager and Operations Management, either orally or in writing, of the need for military leave.

### C. Replacement Employees

The Auditor's Office may appoint another employee, in accordance with City Code and Auditor's Office human resources rules, to replace any employee called to active duty. An employee returning from active duty must report to back work in accordance with [City Human Resources Administrative Rule 6.07 – Military Leave](#), and must generally be returned to the same position as was held when the active duty was commenced.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.07 – Military Leave](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

## **CHAPTER X: MILITARY LEAVE - VACATION DONATION PROGRAM**

### **A. General**

The military leave vacation donation program is intended to allow employees to assist employees on military leave whose rate of pay while on active duty is less than what they earn in base wages as a City employee, and who are no longer receiving pay from the City. Donated vacation leave is used to bridge the difference between the employee's base rate of pay in their City position and the amount of pay the employee receives while on military leave. Auditor's Office employees may donate or receive accrued vacation hours in accordance with the Citywide requirements set forth in [City Human Resources Administrative Rule 6.07 \(A\) – Military Leave – Vacation Donation Program](#) and the Auditor's Office procedures set forth in this rule.

### **B. Notification of Eligibility to Receive Donations**

1. The Auditor's Office may, at a recipient employee's request, post notification City-wide that the recipient employee is eligible to receive voluntary donations of accrued vacation hours.
2. Employees are prohibited from threatening or coercing other employees concerning any aspect of this rule, including but not limited to pressuring another employee to donate time or refuse to accept donated time.

### **C. Procedure for Requesting Donated Vacation Hours**

To request donated vacation hours:

1. An eligible Auditor's Office employee must submit a completed [Request to Receive Donated Vacation Leave for Military Leave](#) form to Operations Management.
2. Operations Management will review the form and prepare a memo of approval from the City Auditor. If approved by the City Auditor, Operations Management will submit the form and approval memo to Human Resources.

3. Human Resources will e-mail the donation posting and donation forms to Operations Management. Operations Management will distribute the posting and coordinate deducting donated leave hours from the donor, calculating the value of those hours, and providing payroll with the necessary information to issue a warrant to the recipient employee.
4. This process may be repeated if the employee remains on military leave up to the six-month maximum accrual.

#### **D. Administration**

The City Auditor retains the right to modify, change, or discontinue the vacation donation program at any time.

1. The City Auditor may establish necessary procedures to implement and monitor the vacation donation program in the Auditor's Office, and may modify the procedures it has established as necessary.
2. The vacation donation program is not subject to any appeal procedure provided for under the Auditor's Office human resources rules or the City Charter.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.07 \(A\) – Military Leave – Vacation Donation Program](#). Adopted by Council on November 5, 2003 (Ordinance No. 178019). Last revised October 19, 2010.

## CHAPTER XI: FUNERAL AND BEREAVEMENT LEAVE

### A. Funeral and Bereavement Leave

1. Employees may be granted up to three (3) days of leave with pay for the death of a relative, an individual related by close affinity, or due to pregnancy loss, including miscarriage, stillbirth, or other loss.
  - a. A "relative" includes a spouse, domestic partner, parent, grandparent, grandparent-in-law, child, stepchild, child-in-law, grandchild, sibling, stepsibling, stepparent, step grandparent, sibling-in-law, parent-in-law, and equivalent relative of an employee with a domestic partner.
  - b. "An individual related by close affinity" includes relationships such as unmarried partners, household members, and any person with whom the employee has a significant personal bond that is like a familial relationship, regardless of biological or legal relationship.
  - c. Under exceptional circumstances, the City Auditor or designee may grant funeral leave on the death of a person other than those listed above.
2. With the approval of the City Auditor or designee, an additional two days leave with no deduction in pay may be allowed for necessary funeral travel time.
3. Employees who are unable to attend the funeral of a relative or where there is no funeral following the death of a relative may be granted up to three days of bereavement leave.
4. In addition to funeral and bereavement leave granted by this rule, in qualifying circumstances, an eligible employee is entitled to take up to two workweeks of bereavement leave per death of a family member under the Oregon Family Leave Act (OFLA). See [Chapter VI: Family Medical Leave](#). An employee will be required to follow all of the stated rules for family medical leave designation.

### B. Ineligibility for Leave

No person employed on a temporary or seasonal basis or employed as a consultant on a contract basis is eligible for funeral or bereavement leave.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.08 – Funeral and Bereavement Leave.](#)

Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised April 25, 2016.

## CHAPTER XII: JURY DUTY

### A. Leave for Jury Duty

Any regular or limited duration employee will be granted leave with pay, and without loss of any benefits of employment, to serve as a juror in response to a subpoena or similar service issued out of a state or federal court. Temporary and seasonal employees are not paid for time on jury duty but may be granted time off to complete service. Generally, the City Auditor will not limit the amount of time an employee may serve on a jury and receive pay.

1. Employees granted leave for jury duty will be carried on the regular payroll in the usual manner, with an entry showing jury service as the appropriate absence code. Time on jury duty is not included in total hours worked per week for Fair Labor Standards Act purposes or for any other purpose.
2. The employee must provide a copy of the official court subpoena to their supervisor. A copy of the subpoena will be placed in the employee's personnel file.
3. An employee granted leave for jury duty must endorse to the City all compensation received for service as a juror and forward such compensation to Payroll, but will be reimbursed for approved travel expenses. However, if an employee serves as juror on a scheduled day off or vacation day, the employee may retain the fee paid for service as a juror but will not receive jury duty leave.

### B. Jury Duty and Work Schedule

An employee may not be paid both jury leave and vacation for the same day. If jury duty occurs on a scheduled day off, the employee is not entitled to additional time off. If an employee granted leave for jury duty is released from service as juror with more than two hours remaining in their normal work shift, the employee must notify their supervisor and must report to work for the remainder of the shift if requested.

This Chapter was adapted from:

[City Human Resources Administrative Rule 6.09 – Jury Duty](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised November 4, 2011.

## **CHAPTER XIII: LEAVE TO ATTEND COURT OR OTHER LEGAL PROCEEDING**

### **A. Attending Court or Other Legal Proceeding Related to Employment**

Any employee who must attend court or other legal proceedings arising from actions taken during Auditor's Office employment will be considered "at work" and will receive regular wages.

1. Employees must notify their supervisor of any job-related subpoena or other request to appear for a court or other legal proceeding. The employee must be subpoenaed or otherwise released by the City Auditor or designee to attend the court or other legal proceeding.
2. Employees must endorse to the City all compensation received for service as a witness and forward such compensation to Payroll, but will be reimbursed for approved travel expenses. See [Leave to Attend Court or other Legal Proceeding – Guidance](#).
3. This Section does not apply to an employee who is a plaintiff in a lawsuit or other legal proceeding against the City.

### **B. Attending Court or Other Legal Proceeding Not Related to Employment**

When an employee is subpoenaed or directed by a proper authority to appear as a party or witness in any legal proceeding that is not connected with the employee's officially assigned duties, the employee will be granted leave but must use vacation, compensatory time, or leave without pay. The time is not included in total hours worked per week for Fair Labor Standards Act purposes or for any other purpose.

### **C. Leave to Attend Criminal Proceedings**

An eligible employee who is the victim of a person felony or whose immediate family member (spouse, domestic partner, father, mother, sibling, child, stepchild, or grandparent) is the victim of a person felony will be given leave to attend criminal proceedings related to the crime.



1. For this chapter “victim of a person felony” means a person who has suffered financial, social, psychological, or physical harm as a result of the person felony.
2. “Criminal proceedings” include any proceedings that are part of a criminal action, including juvenile proceedings and any other proceeding at which a crime victim has a right to be present.
3. Such leave is without pay, but the employee is entitled to use accrued vacation, management leave (if awarded), and/or compensatory time off.
4. To be eligible for leave to attend criminal proceedings, the employee must have worked an average of more than 25 hours per week for at least 180 days immediately before the date the employee takes leave to attend a criminal proceeding.
5. An employee must provide reasonable notice of their intention to take leave to attend a criminal proceeding and provide their supervisor with copies of any notices of scheduled criminal proceedings the employee receives. Such information must be maintained in a confidential file.

**D. If Excused from Service with Time Remaining in Shift**

If an employee granted leave under this rule is released from service as a witness with more than two hours remaining in the employee’s normal work shift, the employee must notify their supervisor and report to work for the remainder of the shift if requested.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.10 – Leave to Attend Court or Other Legal Proceeding](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

## **CHAPTER XIV: LEAVE TO ADDRESS DOMESTIC VIOLENCE, CRIMINAL HARASSMENT, SEXUAL ASSAULT, OR STALKING**

### **A. Rule**

1. Under the [Oregon Victims of Certain Crimes Leave Act \(OVCCLA\)](#), an employee who is the victim of domestic violence, criminal harassment, sexual assault, or stalking, or whose minor child or dependent is the victim of domestic violence, criminal harassment, sexual assault, or stalking, is eligible to take reasonable leave for the following authorized purposes:
  - a. To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, criminal harassment, sexual assault, or stalking.
  - b. To seek medical treatment for or to recover from injuries caused by domestic violence, criminal harassment, sexual assault, or stalking of the employee or the employee's minor child or dependent.
  - c. To obtain, or to assist a minor child or dependent in obtaining, counseling from a licensed mental health professional related to an experience of domestic violence, criminal harassment, sexual assault, or stalking.
  - d. To obtain services from a victim services provider for the employee or the employee's minor child or dependent.
  - e. To relocate or take steps to secure an existing home to ensure the health and safety of the employee or the employee's minor child or dependent.
2. Such leave is without pay, but an eligible employee is entitled to use accrued vacation, management leave (if awarded), and/or compensatory time off. Sick leave may also be available depending on the purpose for the leave. Such leave

may also run concurrently with Oregon Family Leave Act (OFLA) / Family Medical Leave Act (FMLA) leave, to the extent applicable.

## **B. Required Notice and Certification**

An eligible employee taking leave for an authorized purpose under this Chapter:

1. Must provide reasonable advance notice, if feasible, of their intention to take leave. If leave is needed for an unanticipated or emergency situation, the employee must give oral or written notice as soon as is practicable.
2. Must provide certification that the employee or the employee's minor child or dependent is the victim of domestic violence, criminal harassment, sexual assault, or stalking, and that the leave is needed for an authorized purpose.
  - a. Any of the following constitutes sufficient certification:
    - i. A copy of a police report indicating that the employee or their minor child or dependent was a victim of domestic violence, criminal harassment, sexual assault, or stalking.
    - ii. A copy of a protective order or other evidence from a court or attorney that the employee appeared in or was preparing for a civil or criminal proceeding related to domestic violence, criminal harassment, sexual assault, or stalking.
    - iii. Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, clergy member, or victim services provider that the employee or their minor child or dependent was undergoing treatment or counseling, obtaining services, or relocating as a result of domestic violence, criminal harassment, sexual assault, or stalking.

- b. If the leave is also covered under the Oregon Family Leave Act (OFLA) / Family Medical Leave Act (FMLA), a separate medical certification form will be required.

### **C. Reasonable Safety Accommodation**

An eligible employee who has provided the certification required under Section B may request a reasonable safety accommodation in the workplace. A reasonable safety accommodation could include a transfer, reassignment, modified work schedule, unpaid leave, changed work telephone number, changed workstation, installed lock, or other adjustment to the job structure, workplace facility, or work requirement in response to actual or threatened domestic violence, criminal harassment, sexual assault, or stalking.

1. The reasonableness of the safety accommodation will depend on the particular circumstances at issue.
2. A reasonable safety accommodation should be provided unless it imposes an undue hardship on Auditor's Office operations.

### **D. Confidentiality**

1. Information provided under this rule must be maintained in a confidential file and is not generally subject to release without the employee's authorization.
2. Approval of leave granted pursuant to this rule must not contain any information concerning the purpose of the leave, but will state that leave under the Oregon Victims of Certain Crimes Leave Act (OVCCCLA) has been approved.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.10 \(A\) – Leave for Victims of Domestic Violence, Sexual Assault or Stalking](#). Adopted by the Chief Administrative Officer on May 9, 2008. Last revised January 1, 2014.

## **CHAPTER XV: OTHER LEAVE**

### **A. Conventions and Meetings**

1. With the approval of their Division manager or supervisor, an Auditor's Office employee may be authorized to attend a convention, meeting, or conference that is directly related to the business or an interest of the Auditor's Office, with no deduction in leave accruals or loss of pay.
2. An employee requesting leave to attend a convention or conference that is not directly connected to their employment must use vacation or other accrued leave and comply with applicable Auditor's Office human resources rules.

### **B. Blood Donation and Stem Cell and Bone Marrow Transplant Registries**

Employees wishing to donate blood or participate in a stem cell and bone marrow transplant registry during work time must be given a period to do so, not to exceed two hours, with no deduction in leave accruals or loss of pay.

### **C. Affinity Group Participation**

The City's Affinity Groups are mostly voluntary, employee-driven groups that are organized around a shared interest or dimension, such as a protected class or another historical barrier to an equitable and inclusive work environment. Affinity Groups are open to all Auditor's Office employees.

1. Auditor's Office employees who are Affinity Group members and leaders may use regularly scheduled work time to participate in Affinity Group activities in accordance with Citywide requirements, as may be amended. Current requirements include:
  - a. Affinity Group members may use up to one hour of regularly scheduled work time per month to attend Affinity Group meetings.

- b. Affinity Group leaders may use up to two hours of regularly scheduled worktime per month to perform tasks and attend meetings specifically related to their Affinity Group and leadership role.
  - c. Affinity Group members and leaders may use up to 12 additional hours of regularly scheduled work time per calendar year to host and/or plan special annual events or celebrations honoring the Affinity Group or volunteer to represent the Affinity Group at Citywide New Employee Orientation events.
2. Employees who wish to spend additional time on Affinity Group activities must use vacation or other accrued leave and comply with applicable Auditor's Office human resources rules.
  3. Employees using work time for Affinity Group participation are responsible for recording the time on their timesheets in accordance with Division requirements.

#### **D. Search and Rescue Operations; Disaster Relief**

1. Auditor's Office employees may participate in a search or rescue operation at the request of any law enforcement agency, the state Department of Emergency Management, or the United States Forest Service, with no deduction in leave accruals or loss of pay, for any operation lasting up to five days. At the discretion of the City Auditor, an employee may participate for additional time periods, with no deduction in leave accruals or loss of pay.
2. An Auditor's Office employee who is a credentialed or otherwise qualified emergency worker may be allowed up to 15 workdays in any 12-month period, with no deduction in leave accruals or loss of pay, to participate in disaster relief services within the State of Oregon, or in another U.S. state or territory based on a mutual aid request or other agreement initiated by the originating jurisdiction defining the mission, specific qualifications and/or certifications required, working conditions, and expected duration of the assignment. Employees who wish to participate in disaster relief services must obtain prior supervisory approval for their absence from work.

### **E. Restoration and Use of Accrued Leave for Employees Receiving Benefits from the Fire and Police Disability and Retirement and Death Benefit Plan**

The requirements set forth [City of Portland Human Resources Administrative Rule 6.14 – Restoration and Use of Accrued Leave for Members Receiving Benefits from the Fire Disability Retirement and Death Benefit Plan](#) apply to the restoration and use of accrued leave for any Auditor’s Office employee receiving benefits from the Fire and Police Disability Retirement and Death Benefit Plan.

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This Chapter was adapted from:

[City Human Resources Administrative Rule 6.01 – General and Administrative Leaves of Absence](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised January 1, 2020.

[City Human Resources Administrative Rule 6.11 – Search and Rescue and Disaster Relief](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302). Last revised February 15, 2018.

[City Human Resources Administrative Rule 6.12 – Conventions and Meetings](#). Adopted by Council on March 6, 2002 (Ordinance No. 176302).

[City Human Resources Administrative Rule 6.14 – Restoration and Use of Accrued Leave for Members Receiving Benefits from the Fire Disability Retirement and Death Benefit Plan](#). Adopted by Council on February 11, 2004 (Ordinance No. 178190). Last revised February 11, 2004.