



Policy Purpose

Salt Lake City Corporation is required to comply with the Family and Medical Leave Act (FMLA). The FMLA is a federal law providing eligible employees job –protected leave for qualifying events.

I. General

- a. FMLA provides job protection during an FMLA approved leave, restoration to the same or equivalent job upon return to work, and protection from discrimination as a result of taking FMLA leave. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

II. Eligibility

- a. The employee must have worked for the city for at least 12-months. The 12 months need not be consecutive. Separate periods of employment will be counted if the employee’s break in service does not exceed 7 years. However, separate periods of employment will be counted if the break in service exceeds 7 years due to military service.
- b. The employee must have worked at least 1,250 hours during the 12 month period immediately before the requested leave date.

III. Employer/Employee Responsibilities

- a. The city may designate leave as FMLA leave when it has enough information confirming that the absence is for a qualifying event.
- b. The employee is required to notify the city if the leave is for a potential qualifying FMLA event.
- c. If the leave is foreseeable, the employee must provide at least 30 days’ notice. If the leave is not foreseeable, the employee or the employee’s spokesperson shall give notice as is practicable.
- d. While the employee is on continuous FMLA leave, the employee must contact their supervisor at least every 30 days.

IV. Qualifying Events Protected by the FMLA

- a. The birth of a child and in order to care for that child.
- b. The placement of a child for adoption or foster care and to care for the newly placed child.
- c. The employee’s serious health condition.
- d. To care for a covered family member with a serious health condition.
- e. Qualifying exigency while the employee’s family member is on covered active duty or call to covered active duty status.
- f. To care for a covered service member with a serious injury or illness (military caregiver leave).

V. FMLA Leave Entitlements

- a. The FMLA entitles eligible employees to job protected, unpaid leave for up to 12 weeks per a single 12 month period for qualifying events.
- b. The 12 month period (FMLA year) during which the 12 weeks of FMLA leave can be taken for qualifying events is measured forward from the date the employee’s first FMLA leave begins.
- c. The FMLA provides military caregiver leave for up to 26 weeks during a single 12 month period after the requested leave date. The single 12 month period during which leave can be taken begins on the first date of covered military caregiver leave and ends 12 months later, regardless of the date used to



determine the employee’s 12 weeks of leave entitlement for other FMLA qualifying reasons.

VI. Use of Paid Leave

- a. The city requires all employees utilizing FMLA leave to use their paid leave allotments before taking unpaid FMLA leave. Leave time will be based on eligibility and used in the following order:

Employees on Plan A

- Workers’ compensation
- Dependent leave
- Hospital leave/Parental leave
- Sick leave *
- Vacation *
- Compensatory leave* (upon approval of employee)

Employees on Plan B

- Workers’ compensation
- Short-term disability/Parental leave
- Personal leave *
- Vacation *
- Compensatory leave* (upon approval of employee)

* Employees may request in writing the order in which available time is used.

VII. Retroactive Designation

- a. If the city does not initially designate FMLA leave as required, the leave may retroactively be designated as FMLA leave with notice to the employee, provided the failure to timely designate the leave does not harm or injure the employee.
- b. In all cases where leave would qualify for FMLA, the administrator and employee may mutually agree to retroactively designate FMLA leave.

VIII. Certification

- a. The city will require medical certification of any serious health condition of the employee or of the serious health condition of the employee’s spouse, parent or child. If the certification is not received within the requested time, the beginning of leave may be delayed or the leave may be denied.
 - a. If the FMLA is foreseeable, the medical certification is required before taking the leave.
 - b. If the FMLA is not foreseeable, medical certification is required within 15 days after being requested to provide certification by the city.
- b. Recertification of medical conditions or clarification of submitted information can be requested in specific situations pursuant to the FMLA. For example, if an employee’s need for FMLA leave exceeds a single leave year, the city may require the employee to provide a new medical certification in each subsequent leave year.
- c. The city will require certification to support leave for qualifying exigencies or to care for a covered service member.
- d. The city may require second or third opinions regarding the medical certification, at the city’s expense.

IX. Intermittent Leave

- a. FMLA leave may be taken intermittently or continuously for any approved FMLA qualifying event. When the need for intermittent or reduced schedule FMLA leave is foreseeable, the employee must make reasonable attempts to arrange the schedule of the leave so as not to unduly disrupt the city’s operations.
- b. Employees using intermittent leave must follow call-in procedures for the work area.
- c. The employee taking intermittent leave under the FMLA may be required to transfer temporarily to an available alternative position for which the employee is qualified.



- d. FMLA leave for birth of a child, adoption or placement of a child may be used intermittently with approval from the employee's supervisor. In accordance with the [leave practices policy](#), paid parental leave may only be used continuously.

X. Benefits while on unpaid FMLA leave

- a. Employees will not accrue leave time for each full unpaid bi-weekly pay period while on unpaid FMLA leave.
- b. The city will pay its portion of the medical premiums and employee basic term life insurance.
- c. The employee is responsible for paying their share of the medical premium each bi-weekly period. Premiums will be deducted from the employee's pay check while on paid leave. When on unpaid leave, an employee is responsible for coordinating payment with human resources. If an employee's premium payment is more than 30 days late, coverage will be terminated.
- d. Employees have the responsibility to make arrangements to continue their other voluntary benefits when on unpaid leave.
- e. If an employee fails to return to work after unpaid FMLA leave has ended, the employee shall reimburse the city's share of the medical premiums paid by the city while on unpaid FMLA leave from their final paycheck. If there is no final paycheck, the employee will be billed. If payment is not received within 30 days, the employee will be sent to collections, unless the failure to return from leave is due to:
 - i. The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member that would otherwise entitle the employee to leave under FMLA;
 - ii. Other circumstances beyond the employee's control.

XI. Reinstatement from Leave

- a. If the leave is for the employee's own serious health condition, the employee will be required to submit a [release to work notice](#) from their medical provider at the time of reinstatement. If the employee fails to provide a release to work note, the city, through its designee, may delay the employee's return to work until the release form is provided.
- b. Upon return from FMLA leave, the employee will return to the former position or an equivalent position in terms of pay, benefits and working conditions. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.
- c. The city may take any personnel action/decision that would have happened if the employee had continued to work while the employee is on FMLA leave (discipline, reduction in force, etc.).
- d. The employee is considered to have returned to work following FMLA leave if they return for at least 30 calendar days.

Current References:

[Leave Practices Policy](#)

[Return to Work Notice](#)

Approved and passed this 31st date of December, 2016