



Family Medical Leave Act POLICY NO: 202-P

- Applies To: Employees who have worked for the City at least 12 months, at least 1,250 hours over the past 12 months.
- Effective Date: 05/01/2025
- Associated References: [Family Medical Leave Act Poster](#)

Purpose:

The purpose of this policy is to provide employees with information about their rights and responsibilities under the Family and Medical Leave Act (FMLA) and to ensure compliance with federal law.

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

Additional Authority:

Family and Medical Leave Act (FMLA)

Eligibility:

Employees are eligible for FMLA leave if they:

- Have worked for the City for at least 12 months;
- Have worked at least 1,250 hours during the 12 months preceding the leave request;
- Work at a location where the City employs at least 50 employees within a 75-mile radius.

Usage:

Qualifying Reasons for Leave

Eligible employees may take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons. FMLA coverage runs concurrently to paid and unpaid time.

- 1) The birth and care of a newborn child within the first year of birth;
- 2) The placement of a child with the employee for adoption or foster care and to bond with the child within the first year;
- 3) To care for a spouse, child, or parent with a serious health condition (defined below);
- 4) The employee's own serious health condition (defined below) that makes them unable to perform essential job functions;

Under the FMLA, a child is a “son or daughter” defined by the FMLA regulations as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. The FMLA regulations provide separate definitions of “son or daughter” for its military family leave provisions that are not restricted by age.

In order for a parent to take FMLA leave for a child who is 18 or over, the son or daughter must:

- a) Have a disability as defined by the Americans with Disabilities Act (ADA) at the time the leave is to commence,
- b) Be incapable of self-care because of the disability,
- c) Have a serious health condition, and
- d) Need care because of the serious health condition.

Under the FMLA, a “spouse” means a husband or wife. Husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state. This definition includes an individual in a same-sex or common law marriage that either:

- a) was entered into in a state that recognizes such marriages; or
- b) if entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.

A “serious health condition” means a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of 3 consecutive days of incapacity with the first visit to the health care provider within 7 days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Employees with questions about what illnesses are covered under this FMLA policy are encouraged to consult with Human Resources.

If an employee takes paid leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the City may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

- 5) Qualifying exigency leave for families of members of the National Guard or Reserve or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

- a. short-notice deployment
- b. military events and activities
- c. child care and school activities
- d. financial and legal arrangements
- e. counseling
- f. rest and recuperation
- g. post-deployment activities
- h. additional activities that arise out of active duty, provided that the City and employee agree, including agreement on timing and duration of the leave

Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserve, or a member of the Armed Forces, the National Guard or Reserve who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserve, or members on the permanent disability retired list.

- 6) To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the covered service member.

a) A "son or daughter of a covered service member" means the covered service member's biological, adopted, or foster child, stepchild or legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.

b) A "parent of a covered service member" means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents-in-law.

c) The “next of kin of a covered service member” is the nearest blood relative, other than the covered service member’s spouse, parent, son or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member’s only next of kin. For example, if a covered service member has 3 siblings and has not designated a blood relative to provide care, all 3 siblings would be considered the covered service member’s next of kin. Alternatively, where a covered service member has siblings and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member’s next of kin. The City is permitted to require an employee to provide confirmation of covered family relationship to the covered service member pursuant to § 825.122(k).

“Covered active duty” for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country. Covered active duty or call to covered active duty status in the case of a member of the Reserve components of the Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation, in accordance with 29 CR 825.102.

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as “child” for other types of FMLA leave, except that the person does not have to be a minor.) This type of leave would be counted toward the employee’s 12-week maximum of FMLA leave in a 12-month period.

7) Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran, as described above.

An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks of leave in a single 12-month period to care for that service member.

Next of kin is defined as the closest blood relative of the injured or recovering service member.

The term “covered service member” means:

- (a) a member of the Armed Forces (including a member of the National Guard or Reserve) who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- (b) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserve) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

The term “serious injury or illness” means:

- (a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserve), an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating;
- (b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserve) at any time during a period when the person was a covered service member, a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.
- (c) Outpatient status, with respect to a covered service member, the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (No. 1) through (No. 5) (Under Qualifying Reasons for Leave) under this policy during any 12-month period. The City will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (No. 6) (Under Qualifying Reasons for Leave) during a single 12-month period. For this military caregiver leave, the City will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

Notice and Request for Leave

Employees must provide at least 30 days' advance notice for foreseeable leave. If the need for leave is unforeseeable, notice must be given as soon as possible. Employees should submit a completed FMLA request form and supporting medical certification (if applicable) to Human Resources.

Medical Certification

The City may require medical certification to support a request for leave due to a serious health condition. Employees must provide certification within 15 calendar days of the request. The City may request recertification as permitted by law.

Benefits During Leave

During FMLA leave, the City will continue to provide health insurance coverage under the same terms as if the employee had continued working. Employees must continue to pay their portion of health insurance premiums. Other benefits may be impacted based on the City's policies.

For purposes of retirement benefits, FMLA leave is treated as "continued service" for purposes of vesting and eligibility to participate.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, or leaves employment within 30 calendar days of the end of the FMLA leave period, the City will require the employee reimburse the City the amount it paid for the employee's health insurance premium during the leave period.

Job Restoration

Upon return from FMLA leave, employees will be reinstated to their original position or an equivalent position with the same pay, benefits, and terms of employment, unless otherwise permitted by law.

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from a health care provider. This requirement will be included in the City's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other

employment terms. The position will be the same or one that is virtually identical in terms of pay, benefits and working conditions. The City may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

An employee may request an extension of leave beyond the 12-week period because of a serious medical condition. The employee must submit the request in writing to the department head with medical certification of a continued serious health condition a minimum of 2 weeks prior to the end of their FMLA Leave. The department head will review such request on a case-by-case basis in order to determine whether it can reasonably accommodate such a request with the unpaid leave policy.

Reinstatement is not guaranteed when an employee is granted extended leave and will depend on the business needs of the City. If an employee fails to return to work, or is unable to return to perform the essential functions of the job at the end of his or her leave, the employee will be considered to have voluntarily resigned their position with the City of Traverse City.

Certain highly-compensated employees are "key employees" and may be denied restoration to their prior or equivalent position. Key employees are those employees who are among the highest paid 10% of employees within the City. Denial is based on the following conditions: (a) The denial is necessary to prevent substantial economic injury to the City; (b) The City has notified the employee of his/her key employee status, as well as the decision to deny restoration should the leave take place or continue; and c. The employee elects not to return to work after being notified of the City's decision.

Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, personal or short term leave prior to being eligible for unpaid leave, unless such leave is covered under Workers' Compensation Insurance or Disability Insurance, in which case the employee may only use accumulated leave time for the purpose of satisfying any waiting period. Short term leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established Earned Sick Time Act policy. Accrual of vacation or any applicable leave time will continue while under FMLA leave.

Disability leave related to the birth of a child or an employee's serious health condition, including qualifying workers' compensation leave, will be designated as FMLA leave and will run concurrently with disability leave. During this time, the employee may be required to use accrued paid leave, as appropriate, to maintain full income. If the leave does not qualify for supplemental income, the employee must exhaust all available paid vacation, personal, or family leave before becoming eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or short term leave prior to being eligible for unpaid leave.

Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period). If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include the dates and duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

Leave due to a serious health condition, a serious illness or injury of a service member or a qualifying exigency may be taken intermittently (in separate blocks of time due to a single health condition) in minimum 15 minute increments or on a reduced leave schedule (reducing the number of hours you work per workweek or per workday) if medically necessary. If the leave is unpaid, the City will adjust an employee's salary based on the amount of time actually worked.

In addition, while on intermittent or reduced-schedule leave, the City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth or placement for adoption or foster care. An employee on an intermittent or reduced leave schedule will need to work with his/her department head to the extent possible to arrange a schedule that best suits the needs of the department.

For the birth, adoption or foster care of a child, the City and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. Otherwise, such leave must be taken within 1 year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach an agreement with the City before taking intermittent leave or working a reduced-hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

Prohibited Actions

The City prohibits interference with, restraint of, or retaliation against any employee exercising FMLA rights. Employees who believe their rights have been violated should report concerns to Human Resources.

Additional Information

For further details, employees should contact Human Resources or refer to the U.S. Department of Labor’s FMLA guidelines.

This policy is subject to change based on applicable laws and regulations.

<p>Approved By: Elizabeth Vogel on 06/09/2025</p> <p><u>E. Vogel</u> Signature:</p>	<p>HISTORY: Initial Adoption Date: 08/09/1993 Amended Date: 03/01/2011 Amended Date: 07/01/2025</p>
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