

400. BENEFITS

401. LEAVE WITH PAY

As a benefit of employment with the City, leave with pay may be granted for the following reasons, including but not limited to, birthday, authorized holidays, vacation, illness, bereavement, jury duty, witness for the City, voting, annual military service and education. Requests for leave will be submitted for approval on the Request for Leave of Absence form. Requests shall include any necessary documentation. If employees are absent from duty without prior authorization, they must notify their immediate supervisor explaining the circumstances of their absence no later than one (1) hour after the regularly scheduled time to report to duty or as required by the department. The proper forms must be completed as soon as possible upon returning to work.

401.1 BIRTHDAY LEAVE

A. Birthday Leave is granted to any employee in “active status” as of January 1st of the calendar year. Birthday leave is a personal holiday, which leave must be used no later than midnight December 31st of the year accrued and, absent exceptional circumstances (which may only be approved by the Chief Administrative Officer), may not be carried over to the next calendar year. Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible for Birthday leave.

B. The quantity of Birthday leave granted is based on the employee’s status as full-time, three-quarter time (3/4) or half-time (1/2) as of January 1st, of the calendar year and not as of the date the leave is taken.

(1) An employee whose standard work week is full-time shall receive eight (8) hours of Birthday leave;

(2) An employee whose standard work week is three-quarter time (3/4) shall receive six (6) hours of Birthday leave;

(3) An employee whose standard work week is half-time (1/2) shall receive four (4) hours of Birthday leave;

(4) This allocation of Birthday leave may be modified only by the Chief Administrative Officer in accordance with a valid Collective Bargaining Agreement.

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C. The grant of Birthday leave is not accrued pro rata. If an employee is not in "active status" on January 1st of the calendar year, the employee receives no grant of Birthday leave during that calendar year.

D. **Transition provision:** Employees with an outstanding balance of Birthday leave or accruing Birthday leave during November and December of 2012 and have a balance of Birthday leave as of December 31, 2012, may carry their 2012 Birthday leave balance over to 2013.

E. **Definitions:** For the purpose of this Paragraph, the following definitions apply:

Active Status means an employee who is working and being paid, is on paid time-off (vacation, sick leave, etc.), is on an approved paid leave (military, FMLA, etc.), is on an approved unpaid leave (military, FMLA, etc.), or is in an unpaid disciplinary suspension of thirty (30) days or less. Active Status does not include employees in "early retirement", on layoff, in physical layoff or terminated.

Paid status means that the employee is scheduled to receive pay for that day, either for working or for approved paid leaves authorized by the City. Employees on any form of unpaid leave or in lay-off status are not in "paid status".

Scheduled or standard work schedule, (scheduled or standard hours, standard work week, usual work schedule, regular schedule or regular work schedule) means the work hours budgeted for a particular employee in the employee's job description and in the payroll and accounting systems; this term recognizes that an individual employee may actually work a different schedule in any particular day, week or month due to a variety of situations; however, accrual of benefits including leave is based on the employee's scheduled or standard hours and not on actual hours worked in a particular day, week or month.

Standard work week means a forty-hour (40) work week. Most employees are scheduled and expected to work a forty-hour (40) work week.

Full-time employee is an employee whose standard or regular work schedule contemplates a 40-hour or more work week.

Part-time employee is an employee whose standard or regular work schedule is budgeted as 39 hours or less of work per week.

Three-quarter-time employee is an employee whose standard or regular work schedule is budgeted as 30 hours of work per week.

Half-time employee is an employee whose regular work schedule is budgeted as 20 hours of work per week.

History: This paragraph is the successor version to 401.1 of the 2001 version of the Personnel Rules and Regulations. It has been re-formatted and substantially revised effective January 1, 2013.

401.2 Vacation Leave

Vacation leave will accrue on a biweekly basis from the date of current employment. No vacation leave may be granted before it is accrued. Vacation leave will accrue through December 31 each year and the excess of seventy-eight (78) biweekly accruals will be dropped from the record at the end of the pay period containing December 31 unless the employee is in Early Retirement or has an effective retirement date of 1/1 of the following year. An employee separating from city employment will be compensated for the balance of their unused vacation computed to the date of separation. When a legal holiday, which would have been a regular workday for the employee, occurs during vacation, it shall not be charged as vacation leave but as a holiday.

In the event an employee exhausts their paid vacation leave during a pay period the accruals must be prorated based on the number of paid hours during the pay period.

Part-time employees, classified and unclassified, working twenty (20) hours or more per week will receive vacation leave on a prorated basis.

Employees categorized as temporary, seasonal, student or part time working less than twenty (20) hours per week are not eligible for vacation leave.

A. Scheduling Vacation Leave

Vacation leave must be approved at least twenty-four (24) hours in advance of the time it is taken unless specified otherwise by the department director in order to accommodate the particular staffing needs of their departments.

B. Vacation Accrual Rate

Continuous Service	Regular Workweek	Accrual Per Bi-weekly	Accrual Per Year
0 to 4 years	40 hours 56 hours	3.85 hours 5.39 hours	100 hours 140 hours

5 to 9 years	40 hours 56 hours	4.62 hours 6.47 hours	120 hours 168 hours
10 to 14 years	40 hours 56 hours	5.54 hours 7.76 hours	144 hours 201.60 hours
15 years and more	40 hours 56 hours	6.16 hours 8.62 hours	160 hours 224 hours

401.3 Holidays

The Chief Administrative Officer shall announce annually the legal holidays for city employees. Employees must be in a pay status for the full workday immediately before and the full workday immediately after the holiday in order to be paid for the holiday.

With the written approval of their department director, employees may take any holiday as a floating holiday within one (1) calendar year after the holiday. The department director must first consider the affect on providing city services before authorizing these requests. The number of hours will be based on the employees' actual schedule the date the holiday occurred. If the employee requests to float the holiday compensation will be at straight time.

If the City requires the employee to work the holiday compensation will be in accordance with FLSA.

If a designated legal holiday falls on a Saturday or an employee's first day off, the holiday will be observed on the previous Friday or the previous workday. If a designated legal holiday falls on a Sunday or an employee's last day off, the holiday will be observed on the following Monday or the next workday. For a four (4) day workweek, a holiday occurring on a day off will be observed on the last workday or next workday as determined by the immediate supervisor.

If an exempt employee is required to work on a legal holiday, the employee is entitled to an alternate day within one (1) calendar year after the holiday. The alternate day must be approved at least twenty-four (24) hours in advance of the time it is taken.

401.4 Sick Leave

Classified and unclassified employees working a forty (40) hour workweek shall accrue sick leave at the rate of 3.70 hours biweekly up to a maximum of 1,200 hours unless otherwise specified in a collective bargaining agreement. No sick leave may

be granted before it is accrued.

In the event an employee exhausts their paid sick leave during a pay period the accruals must be prorated based on the number of paid hours during the pay period.

Provided the employee has an accrued sick leave balance, sick leave may be granted for absence from duty because of personal illness, illness of a spouse, domestic partner, son, daughter, or parent as these terms are defined in Section 401.11, L.

Personal illness is defined to include scheduled doctor's appointments for health examination, evaluation and/or treatment. Doctor's appointments may require documentation. Hours worked in addition to the regularly scheduled workweek will not entitle the employee to additional sick leave benefits.

Part-time employees, classified and unclassified, working twenty (20) hours or more per workweek will receive sick leave on a prorated basis.

Employees categorized as temporary, seasonal, student or part time working less than twenty (20) hours per week are not eligible for sick leave.

A. Certification of Sick Leave

Employees absent from work where such absence is chargeable to sick leave, may be required to provide their supervisor with a doctor's statement certifying the absence from work was due to illness or injury and the employee is now able to perform the essential functions of the job.

Any employee taking sick leave shall, upon returning to work, complete a Request for Leave form, indicating the type of sick leave claimed and the dates of absence.

Employees who make a false claim for sick leave, sign a certificate/statement containing a false statement, refuse to be examined by a doctor selected by the City, or fails to cooperate in any investigation by the City of their claim for sick leave shall not be entitled to any leave with pay for the time in dispute. Such actions are considered just cause for disciplinary action up to and including termination.

B. Sick Leave Clearance

Employees returning after five (5) or more consecutive workdays of sick leave must submit to the Human

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Resources Department a release from their personal physician. The Human Resources Department will then refer the employee to the City Clinic for a return to work clearance and certification that the employee is able to perform the essential functions of the job. However, nothing will prohibit a supervisor from requesting a sick leave clearance from employees returning for a period of less than five (5) consecutive workdays of sick leave.

C. Sick Leave Conversion

The maximum sick leave accumulation for classified employees will be 1,200 hours for a forty (40) hour workweek or a prorated amount for a regular workweek other than forty (40) hours unless otherwise specified by a collective bargaining agreement.

Employees who have reached the specified accumulation levels listed below may exercise one of the available options. The option to convert sick leave will be offered only in November of each year. Employees electing to not convert sick leave will continue to accrue sick leave up to the maximum of 1200 hours.

The following conversion formula will be used to convert

accumulated sick leave unless otherwise specified in a collective bargaining agreement:

Options

1. Sick leave accumulation over 500 hours may be converted at:
 - a. Three (3) hours of sick leave to one (1) hour of vacation, or
 - b. Three (3) hours of sick leave to one (1) hour cash payment.
2. Sick leave accumulation over 850 hours may be converted at:
 - a. Two (2) hours of sick leave to one (1) hour of vacation, or
 - b. Two (2) hours of sick leave to one (1) hour cash payment.
3. Sick leave over 1,200 hours must be

converted at:

- a. Three (3) hours of sick leave to two (2) hours of vacation, or
- b. Three (3) hours of sick leave to two (2) hours cash payment.

D. Sick Leave Conversion at Retirement

An employee may convert 100% of accumulated sick leave to be applied to early retirement leave immediately prior to the effective date of retirement. Refer to Section 403.10 of these Regulations.

Employees may convert 100% of both sick and vacation leave accumulation to cash payment at the time of retirement.

E. Sick Leave Conversion at Termination

An employee who has an accumulation of sick leave of between 500 hours and the maximum accrual will, upon termination from city employment, be allowed to convert accumulated sick leave in excess of 500 hours on the basis of

three (3) hours of sick leave to one (1) hour of cash payment. This applies regardless of the option the employee selects in November of each year.

This benefit does not apply to employees terminated for cause. Employees terminated for cause will not be allowed to convert their accrued sick leave to cash payment.

F. Sick Leave Death Benefit

Upon the death of a City employee, the City will pay cash to the designated beneficiary (as identified in the City's life insurance policy) for sick leave accrued by the employee. The employee must be in an employment status that authorizes the accrual of sick leave benefits.

G. Sick Leave Incentive Leave

Employees must have been employed with the City for six (6) consecutive months in order to

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participate in the sick leave incentive program as follows:

1. Employees utilizing zero (0) hours of sick leave for six (6) consecutive months will be awarded eight (8) hours of vacation leave.
2. Employees utilizing less than or equal to 12.5 percent of accrued sick leave over six (6) consecutive months will be awarded four (4) hours of vacation leave.
3. Part-time employees transferring to full-time positions within the specified six (6) consecutive month period will receive sick leave incentive as if they had been full-time employees for the entire six (6) month period.
4. Departments will review sick leave usage twice a year for the periods, July 1 through December 31 and January 1 through June 30.
5. Employees on injury time are not eligible for incentive leave with the exception of light duty and FMLA.
6. Employees on suspension or administrative leave resulting from a disciplinary action that is sustained through administrative or judicial process will not be eligible for incentive leave.
7. Employees utilizing donated leave will not be eligible for incentive leave unless the donated leave was used for FMLA purposes.
8. Part-time employees working twenty (20) hours or more per week, if eligible, will receive incentive leave on a prorated basis.

This regulation shall be the only means of providing sick leave incentive for City employees.

Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible to participate in the sick leave incentive program.

401.5 Donation of Sick/Vacation Leave(September 24, 2004)

Donation of sick/vacation leave is designed to assist classified and unclassified employees with a minimum of two (2) years continuous service who have exhausted all accrued leave and who have no other paid leave options available. This leave may be granted only in the event of a **life threatening** as defined in 401.5 A. Only an employee whose exceptional performance has been certified by the department director is eligible to request leave donations under this program.

A. Eligibility for Donated Leave

1. Serious illness or injury is defined as:
 - a. A life threatening illness of, or injury to the employee, the employee's spouse, domestic partner, child or parent; or
 - b. An illness of, or injury to the employee which renders the employee incapable of performing the essential functions of their job as certified by a medical determination; or,
 - c. An illness or injury to the employee, the employee's spouse, domestic partner, child or parent which requires hospitalization, rehabilitation, or hospice care.
 - d. Serious illness or injury shall not include elective medical procedures, or mental or emotional illness.
2. Classified and unclassified employees with a minimum of two (2) years service are eligible to request donated leave.
3. To request donated leave, an employee must have exhausted all accrued leave and have no other paid leave options available.
4. Leave donations will be granted only in case of a serious illness or injury as defined above.
5. Employees must demonstrate exceptional performance.
6. An employee must not have received donated leave,

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injury time or hardship leave in the twelve (12) months preceding the request.

7. If eligibility is at issue, the Chief Administrative Officer (CAO) may find an employee eligible for reasons he deems medically compelling.

B. Procedure for Donated Leave

1. An eligible employee may request a donation of leave by submitting an application to the department director which shall include the following:

- a. The name, social security number and rate of pay of the proposed leave recipient;
- b. A description of the serious illness or injury which has prompted the request for donation of sick/vacation leave to include a medical statement including the diagnosis, prognosis, required treatment and anticipated return to work date;
- c. The anticipated amount of donated leave the recipient will require; and
- d. Any other information, which may be

required by the City to make a determination regarding the request.

2. The department director will review the request and determine whether the requesting employee meets the eligibility criteria. If the department director approves the request, the director will submit the application for leave donation to the Human Resources Department for approval.
3. The Human Resources Department will review the request and ensure the request is supported with a medical determination regarding the serious illness or injury. If approved, leave donations will first be solicited for a period of two (2) weeks within the department of the affected employee. The Chief Administrative Officer may choose to solicit from other Departments simultaneously if sufficient cause warrants it.

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4. If insufficient leave is donated within the employee's department, the department director will request the Human Resources Department recommend to the Chief Administrative Officer that donations be solicited citywide. If approved by the Chief Administrative Officer, leave donations may be solicited from other departments for a period of two (2) weeks.
5. The department director will coordinate, with the Payroll Section of the Department of Finance and Administrative Services, the transfer of donated hours provided that employees donating vacation have a sufficient number of accrued hours at the time of transfer. Donated sick leave will be converted in accordance with the sick leave conversion formula provided for in Section 401.4 C of the regulations before transferring hours to the recipient.

C. Conditions of Donated Leave

1. Donated leave will be converted to a dollar value and then converted to hours based on the recipient's hourly rate.
2. Donated leave must be charged to FMLA leave if the recipient has not exhausted the twelve (12)

weeks FMLA entitlement.

3. Donated leave may be requested only one (1) time during a twelve (12) month period.
4. Recipients of donated leave are responsible for notifying their department director and the City Payroll Section of any change in status requiring the termination of donated leave status.
5. The leave recipient will not accrue vacation or sick leave while on donated leave status.
6. No new enrollments or increases will be allowed to a deferred compensation account while an employee is on donated leave.
7. Once an employee returns to work from donated leave, either full time or part-time, all remaining donated hours will be reinstated to the donating

employee(s) on a pro-rated basis.

8. Departments are responsible for ensuring that all relevant auditing and accounting procedures are followed.
9. Provisions regarding the confidentiality of medical records and information shall govern. Posted solicitation for donated leave will ensure the privacy of medical information. Disclosure of such information may be made only with the express written consent of the affected employee.
10. Donated leave will not be granted as an extension of leave without pay of more than two (2) weeks, injury time or hardship leave. Donation of sick/vacation leave is strictly voluntary. Denial of a request to solicit donated leave is not grievable.

401.6 Bereavement Leave

A maximum of three (3) days sick leave may be used in case of death in the employee, spouse, or domestic partner's immediate family. An additional day may be granted for every 500 miles travel one-way from Albuquerque required to attend funeral services. Leave will be charged to sick emergency and proof of death may be required.

For purposes of this section **immediate family** is defined as spouse, child, stepchild, parent, stepparent, mother-in-law, father-in-law, brother, sister, grandparent, grandchild or any individual for whom the employee is a court appointed legal guardian. It also includes a domestic partner and the child, stepchild, parent, stepparent, brother, sister, grandparent or grandchild of the domestic partner.

401.7 Hardship Leave

Department directors shall submit requests for hardship leave to the Human Resources Department on behalf of their employees. The Director of Human Resources will forward the request to the Chief Administrative Officer with a recommendation regarding approval. Leave with pay may be granted for a period not to exceed six (6) calendar months to classified and unclassified employees having at least five (5) years of continuous service and

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twelve (12) calendar months to classified and unclassified employees having at least ten (10) years continuous service upon demonstration of extreme hardship due to a **life threatening** personal injury or sickness of the employee. Part-time employees working twenty (20) hours or more will receive benefits on a prorated basis. Employees on hardship leave status will not accrue sick and vacation leave.

This leave may be granted only after all other paid leave has been exhausted and only if the employee is not eligible for disability or retirement benefits under PERA or Social Security. The employee must provide written documentation from PERA or the Social Security Administration documenting the denial of benefits. Hardship leave must be reported as FMLA unless the twelve (12) week entitlement has already been exhausted.

The period of hardship leave ends when the employee returns to work either full time or part-time. Any additional requests for hardship leave must be submitted as a new request. Hardship leave may not be granted as an extension of donated leave.

Only an employee whose exceptional performance has been certified by the department director is eligible for this leave.

Denial of a request for hardship leave is not grievable.

401.8 Work Off Site

Employees who are elected to a board or committee whose primary purpose is to enhance the goals or benefits of the city or its

employees will be granted up to eight (8) hours leave with pay per month, unless otherwise approved by the CAO, to conduct official business upon approval of the department director. This time may not be accumulated or used for other purposes.

Other employees may be granted time to attend job-related conferences, meetings or seminars out of Albuquerque. Such time will be recorded as Work off Site.

The employee is required to obtain prior approval of the department director through submittal of a Request for Leave form documenting all work off site.

401.9 Educational Leave

If an employee is participating in a program leading towards a degree or certificate which is approved by the Training and

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Education Committee, the department director may grant educational leave not to exceed three (3) hours per week for full time employees in accordance with Section 502.2. Employees will be required to submit a Request for Leave form documenting the educational leave.

401.10 Injury Time

In addition to other employee benefits, employees are eligible to receive injury time benefits subject to the limitations provided in this section. Police, Fire and Correction cadets are required to successfully complete a specific course of training prior to being retained as a classified probationary employee. During this training period, cadets will not be eligible for injury time but will be eligible for State Workers Compensation benefits.

A. Employees who are injured or who suffer an occupational disease in the performance of their duties are eligible for injury time payments the day after the injury (which includes the seven (7) day waiting period required by the Workers Compensation Act) and under all of the following conditions:

1. The employee is receiving Workers' Compensation wage loss (temporary total disability) benefits;
2. The employee is receiving health care services (treatment) from the health care provider selected by the City;
3. The health care provider selected by the City

certifies the employee is unable to perform the essential functions of the job or that the employee can perform tasks within the Light Duty program; and

4. The employee has been temporarily assigned to a light duty function as a result of sustaining a compensable job injury or illness.

Injury time payments shall not be paid after the death of an employee.

B. Payments to the employee will include the Workers Compensation wage loss benefit and the injury time payments provided by the City, which combined, may not exceed the employee's regular wages (gross less statutory

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deductions). Injury time shall be used only as a supplement payment to Workers' Compensation wage loss (temporary total disability) benefits or temporary light duty assignments.

The Chief Administrative Officer may withhold injury time benefits to any employee for good and sufficient reason.

- C. Injury time benefits will be allowed for any on-the-job injury including, multiple injuries from the same accident, prior injury, recurrence or aggravation of an injury or occupational disease.

Injury time benefits will be allowed for up to and including, but not to exceed 960 hours for the standard forty (40) hour workweek or 1,344 hours for a fifty-six (56) hour workweek. Multiple injuries from the same accident will be subject to a maximum of 960 hours. Initial and subsequent injuries to the same body part or function will be subject to a maximum of 960 hours regardless of the number of subsequent events.

A **prior injury** is any injury suffered by the employee as a result of a previous accident, illness or injury to one or more body parts.

An employee shall be charged injury time on the basis of their current approved schedule for each workday. Such time including light duty shall not exceed the maximum hours in their regular workweek. If the employee has a regular workweek of other than forty (40) hours, or a regular workday of other than eight (8) hours, the injury

time charged and the maximum hours of injury time shall be prorated.

Upon exhaustion of injury time, sick leave may be used to supplement Workers' Compensation wage loss (temporary total disability) benefits. If sick leave is used to supplement Workers' Compensation wage loss (temporary total disability) benefits, it shall be charged on the basis of the number of hours in their current approved schedule for each workday, not to exceed forty (40) hours in a workweek. If the employee's regular workweek is other than forty (40) hours the sick leave charge shall be prorated.

Upon the denial or exhaustion of injury time and the

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exhaustion of sick leave, all accrued vacation hours will be paid in a lump sum and the employee transferred to physical layoff.

If an employee has a disability as defined by the Americans with Disabilities Act (ADA) consideration will be given as to whether a reasonable accommodation can be made prior to transferring to physical layoff.

- D. The receipt by the employee of injury time payments from the City shall operate as an assignment to the City against any amount collected through a settlement or court action by the employee against a third party causing the injury or disease. The City may proceed against a third party in its own name to collect reimbursement of injury time payments. The failure of any employee to cooperate with the City in any legal or other action is considered just cause for disciplinary action up to and including termination.
- E. Employees on a temporary Light Duty assignment working twenty (20) hours or more per week will be eligible for sick and vacation accruals on a prorated basis.
- F. Authorized absences for employees while on Light Duty will be charged to the appropriate leave category. Such absences will not be charged to Light Duty/Injury time.
- G. Employees on injury time, excluding Light Duty, will not earn service credit towards retirement through PERA.
- H. Injury time, excluding Light Duty, will be charged to FMLA.
- I. Employees who are on injury time status for more than two

full pay periods, excluding light duty assignments of twenty (20) hours or more per week, shall not accrue sick or vacation leave.

Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per workweek, are not eligible for injury time benefits.

A decision to withhold injury time payments to any employee is not grievable.

401.11 Family and Medical Leave (Revised 02/25/08)

These rules and regulations are based on the provisions of the

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federal Family and Medical Leave Act (FMLA) and will be administered consistent with that law, federal regulations and the definitions included in this section.

Job-protected leave may be taken for up to a total of twelve (12) workweeks in any twelve (12) month period because of 1) the birth of a child and to care for the newborn child during the first year following birth, 2) the placement of a child with the employee for adoption or foster care during the first year following placement, 3) the employee's need to care for a child, spouse, domestic partner or parent with a serious health condition, or 4) the employee's inability to work because of a serious health condition.

The City may require documentation of any family relationship on which a leave request is based.

FMLA leave will be administered by either the Human Resources Director or the Department Director as determined by the Chief Administrative Officer. Directors may appoint a designee to assist with the Administration of FMLA and this individual will be subject to the same requirements of confidentiality.

(CFR 825.110)

A. Eligibility

To be eligible for FMLA leave, an employee must have worked for the City a total of twelve (12) months (or fifty-two 52 weeks if the work is intermittent) and must have worked 1,250 hours in the twelve (12) months preceding the date the FMLA leave will begin. FLSA-exempt employees who have worked for twelve (12) months are presumed to meet the hourly requirement. Paid and unpaid absences used in the twelve (12) months preceding the date the FMLA leave will begin are not counted toward the 1,250 hour total.

Time spent on Military Leave is counted as hours worked for purposes of calculating FMLA eligibility.

(CFR 825.220)

An employee's conduct or performance has no bearing on their entitlement to FLMA leave, pursuant to Federal Regulation.

B. Types of FMLA

(CFR 825.201)

1. Birth/Placement of a Child

An employee may take leave because of the birth or

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placement of a child with the employee. The right to family leave expires twelve (12) months after the birth or placement of a child with the employee.

2. Serious Health Condition of the Employee

An employee may take medical leave for up to twelve (12) weeks for a medically certified temporary period of incapacity, illness or injury that is a serious health condition making the employee unable to work.

Medical leaves of absence for pregnancy, childbirth or related conditions are subject to the same eligibility, terms, and conditions as are applicable to leaves of absence for all other types of serious health conditions.

(CFR 825.116)

3. Serious Health Condition of a Family Member

An employee may take medical leave for up to twelve (12) weeks if the employee's parent, spouse, domestic partner or child has a serious health condition and the employee is needed to care for the family member. An employee is "needed to care for" a family member when either physical or psychological care is needed. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance, which would be beneficial to a child, spouse, domestic partner or parent with a serious

health condition that is receiving in-patient or home care. The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

4. Service member Family Leave

a) Active Duty Family Leave - Employees with a spouse, parent, or child who is on or has been called to active duty in the Armed Forces may

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take up to 12 weeks of FMLA leave when they experience a qualifying exigency as defined by the US Department of Labor.

b) Injured Service member Leave -

Employees who are the spouse, parent, child, or next of kin of a service member who incurred a serious injury or illness on active duty in the Armed Forces may take up to a combined total of 26 weeks of leave in a 12-month period (including regular FMLA leave) to care for the service member. The leave described in this paragraph shall only be available during a single twelve-month period.

(CFR 825.117, 825.203)C.

Intermittent Leave or Reduced Leave Schedule

1. When medically necessary due to an employee's own serious health condition or to care for a seriously ill child, spouse, domestic partner or parent of the employee, an employee is permitted an intermittent leave or a reduced leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single illness or injury rather than for one continuous period of time.

When leave is taken on an intermittent or reduced leave schedule, the leave may be measured in increments of less than one hour and may last up to several weeks. A reduced leave schedule reduces an employee's usual number of hours per workweek and/or per workday. For intermittent leave or leave on a reduced leave schedule, there must be a medical need for the leave (as distinguished from

voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule.

2. When FMLA leave is used for reasons where intermittent leave or reduced leave schedules are not medically necessary, an employee may request such a schedule. The department director has the discretion to approve or deny the request.
3. An employee must work with the department director to establish a mutually satisfactory

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treatment schedule that does not unduly disrupt business and meets the employee's or the patient's medical needs. If an employee fails to consult with the department director, the employee may be requested to reschedule treatments, subject to the approval of the health care provider.

4. When intermittent leave is certified for a chronic condition or a serious health condition that is episodic in nature, an employee is required to contact their supervisor (as specified by department policy) to advise that their unscheduled absence is related to the qualifying condition for which they have provided a medical certification and have been approved for FMLA.

5. An employee cannot be required to disclose additional medical information or doctor's notes outside of that provided in their original medical certification or recertification or to disclose medical information to personnel who are not charged with processing or administering requests for Family and Medical Leave. If a supervisor suspects an abuse of intermittent leave or observes a change in the frequency and/or duration of absences, he/she should contact the designated FMLA Administrator/Coordinator to request a clarification or recertification as permissible under the federal FMLA regulations.

(CFR 825.204)

6. When an employee is granted intermittent leave or reduced leave, the employee may be required to accept a temporary transfer to an available alternative position for which the employee is qualified and which better accommodates recurring

periods of leave than does the employee's regular position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative position must have equivalent pay and benefits. It need not have equivalent duties.

7. Employees may take Injured Service member leave intermittently, but must use it up within twelve months.

D. Notice Requirements

(CFR 825.302, 825.303)

1. Employee Notice of Leave

(CFR 825.304)

As with any type of leave, an employee must give advance notice requesting leave and obtain approval, except in emergencies. An employee must give at least thirty (30) days written notice before leave starts. If thirty (30) days notice is not possible, notice is expected as soon as practical. "As soon as practical" means at least verbal notice within two (2) business days of learning of the need for leave followed by written confirmation. If an employee fails to give thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the Human Resources Director (or Department Director, as applicable) or designee may delay the taking of FMLA leave until at least thirty (30) days after the date the employee provided notice.

(CFR 825.306)

Request for leave must be submitted on a Family Medical Leave Certification Form. The Human Resources Director (or Department Director, as applicable) or designee will determine if the leave qualifies for family/medical leave. It is the employee's responsibility to provide enough information, including the reason for requesting leave, so that the Human Resources Director (or Department Director, as applicable) or designee can make this determination.

Any FMLA-qualifying absence will be designated as FMLA leave by the Human Resources Director (or Department Director, as applicable) or designee and will be applied to the twelve (12) weeks entitlement, even if not requested by the employee.

In any case in which the necessity for leave due to Active Duty of a Family Member is foreseeable, whether because the spouse, or a son, daughter, or parent of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

2. City Notices to the Employee

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The Human Resources Director (or Department Director, as applicable) or designee will notify the employee within two (2) workdays, if feasible, of the approval or disapproval of their FMLA request.

The Human Resources Director (or Department Director, as applicable) or designee will also within two (2) workdays, if feasible, notify the employee of the designation of the absence as FMLA even if the employee had not requested such leave. If the Human Resources Director (or Department Director, as applicable) or designee learns the absence is for an FMLA qualifying purpose the Human Resources Director (or Department Director, as applicable) or designee may retroactively designate the leave as FMLA leave.

The Human Resources Director (or Department Director, as applicable) or designee will give notice within two (2) workdays, if feasible, of learning the reason for the leave.

The City may make a preliminary designation of leave as FMLA qualifying if medical certification was not provided prior to the beginning of leave, or if the employer is waiting for a second or third medical opinion.

The City may designate leave, which has already been taken.

E. Required Certification

1. Medical Certification

(CFR 825.302, 825.305)

An employee who requests leave for their own or an eligible family member's serious health condition must provide a medical certification from a health care provider

on a form supplied by the City. Where FMLA leave is foreseeable and thirty (30) days notice has been provided, an employee must provide a medical certification before leave begins. In other cases, the medical certification must be provided within fifteen (15) days after the City requests medical certification or the employee advised their supervisor of the need for the FMLA absence. The employee is responsible for any expense connected with the medical certificate. Failure to provide the required medical

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certificate(s) may result in a delay or denial of family or medical leave.

(CFR 825.307)

If the City has reason to question the adequacy of a medical certification, a health care provider representing the City may contact the employee's health care provider, with the employee's permission, for purposes of *clarification* and authenticity of the medical certification. The City has the right to require, at its own expense, a second medical opinion and "is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employer" (City). If the second opinion and the original certificate conflict, the City has the right to require a third opinion by a health care provider upon whom the City and the employee agree. The third opinion is final and binding.

If the City designates paid or unpaid leave as FMLA leave, without the employee's request for FMLA leave, the employee may dispute this designation by supplying a medical certificate from the health care provider.

(CFR 825.308)

The City may request additional medical certification at reasonable intervals during family medical leave, but not more often than every thirty (30) days, unless the circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications) or the employer receives information that casts doubt upon the employee's stated reason for the absence.

2. Certification Related to Active Duty or Call to Active Duty

An employer may require that a request for leave under Service member Family Leave be supported by a

certification issued at such time and in such manner as the Secretary may be regulation prescribe.

F. Restrictions

1. If both the husband and wife or domestic partner work for the City, they may take only a combined total of twelve (12) weeks in any twelve (12) month period for the birth or placement of a child, or to

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care for a parent (not a parent-in-law) who has a serious health condition.

2. Family leave for the birth or placement of a child should be taken consecutively unless other arrangements are made with the department director.
3. If both the husband and wife or domestic partner work for the City, they may take only a combined total of twenty-six (26) workweeks for service member family leave.

G. Substitution of Paid Leave

1. Employees must use accrued sick leave, except as otherwise provided in a City collective bargaining agreement. After accrued sick leave is exhausted, the employee may request to use vacation, compensatory time or unpaid leave. Donated leave, hardship leave, or injury time, excluding light duty, will be charged to FMLA leave.
2. City recognized holidays that occur during an employee's FMLA leave will be counted as FMLA leave.

H. Rights and Responsibilities While on Leave

During paid FMLA leave, sick and vacation leave will continue to accrue and will be prorated if appropriate. Sick and vacation leave will not accrue during any unpaid FMLA leave.

The City will continue to pay its share of insurance premiums while the employee is on paid leave; however the employee will be responsible for the full payment of insurance premiums while on unpaid leave for a full pay period or longer.

The City has the right to recover premiums it paid if the employee does not return to work after the leave.

Employees on unpaid FMLA leave will not pay PERA for that period of unpaid leave nor will the employee receive service credit during the unpaid leave for retirement purposes.

While on FMLA leave, an employee must contact the

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supervisor, by telephone, at least every four (4) weeks to report on their status and intention to return to work at the end of the leave. If the circumstances of the employee's leave changes and the employee is able to return to work earlier than anticipated, the employee must notify the supervisor at least two (2) workdays before the date the employee intends to report to work.

(CFR 825.216, 825.220)

The FMLA does not entitle any employee to any right, benefit or position of employment other than any right, benefit or position of employment to which the employee would have been entitled if the employee had not taken leave under the FMLA. FMLA cannot be used as a shield to avoid legitimate discipline.

I. Return to Work after FMLA

1. Position

a. An employee, except for a key employee, returning from FMLA, has the right to return to their former position if the employee is able to perform the essential functions of the job, or they may be placed in an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

(CFR 825.217)

b. The City reserves the right to deny reinstatement to key employees where such denial is necessary to prevent substantial and grievous economic injury to the City's operations. The determination of whether an employee is a key employee will be made at the time the employee gives notice of the need for leave or at the time the City designates leave as FMLA leave.

Key employees will be notified of the City's intention to deny reinstatement as soon as a

determination is made that injury would occur. In the event a key employee decides not to return to work from unpaid leave, the employee will remain on leave for the balance of the leave period and then be terminated.

2. Benefits

(CFR 825.213)

If an employee does not return to work after the leave entitlement has expired, the employee may be required to reimburse the City for any health insurance premiums paid by the City during the period the employee was on family or medical leave if the failure to return to work is not due to the continuation, recurrence, or onset of a serious health condition entitling the employee to leave or other circumstances beyond the employee's control. An employee shall provide certification from the health care provider supporting a claim of inability to return to work for health reasons.

3. Release

Employees returning to work from a serious health condition must submit to the Human Resources Department a release from their personal physician. The Human Resources Department will refer the employee to the City Health Clinic for a return to work clearance and certification that the employee is able to perform the essential functions of the job with or without accommodations. If an employee requires an accommodation under ADA a request must be submitted in accordance with Section 308.

J. Prohibitions and Enforcement

1. FMLA makes it unlawful for an employer to:
 - a. Interfere with, restrain, or deny the exercise of any right provided under FMLA; and
 - b. Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.
2. FMLA does not affect any Federal or State law prohibiting discrimination, or supercede any State

or local law or collective bargaining agreement that provides greater family or medical leave rights.

(CFR 825.307)

3. Request additional information from the employee's health care provider if the employee has already submitted a complete certification signed by a health care provider.

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4. The US Department of Labor is authorized to investigate and resolve complaints of violations of FMLA.
5. An eligible employee may bring a civil action against an employer for violation.

K. Record Keeping Requirements

1. The Human Resources Department (or Department, as applicable) is responsible for providing written notice to the employee who is absent from work for a serious health condition (to include Workers Compensation claims) that their time away from work counts toward their FMLA entitlement.
2. The Human Resources Department (or Department, as applicable) must keep records of the dates and duration of leave taken under FMLA entitlement. FMLA records, which contain medical information, such as FMLA certification, Request for Leave forms, and written communications, must be maintained separately from other personnel and payroll records.

L. Definitions

1. **Spouse** - husband or wife as defined or recognized under New Mexico law.
2. **Domestic Partner** – an individual who lives in a long-term relationship of indefinite duration who meets all criteria established by the City and has filed an affidavit of domestic partnership with the Human Resources Department, Insurance and Benefits Division.
3. **Son or Daughter** - a biological, adopted or foster child, stepchild, a legal ward, or a child for whom the employee has intentionally assumed the obligations of the parental relationship, such as daily care and financial support without going through the formalities of adoption, who is under

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the age of eighteen (18), or who is eighteen (18) years of age or older and is incapable of self-care because of a mental or physical disability.

4. **Parent** - the biological parent of an employee or an individual who intentionally assumed the obligations of the parental relationship, such as daily care and financial support, without going through the formalities of adoption when the employee was a child. This term does not include parents-in-law.
5. **FMLA Leave** - Paid or unpaid leave taken for a reason provided for by the federal Family and Medical Leave Act.
6. **Health Care Provider**
 - a. Doctors of medicine or osteopathy; or
 - b. Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to subluxation correction); or
 - c. Nurse practitioners, nurse-midwives and clinical social workers that are performing within the scope of their practice as defined by state law; or
 - d. Christian Science practitioners; or
 - e. Any health care provider recognized by the City or its health care plans.
7. **Serious Health Condition** - an illness, impairment, or physical or mental condition that involves:
 - a. In-patient care in a hospital, hospice or residential medical care facility, or subsequent treatment in connection with inpatient care; or
 - b. Incapacity for more than three (3) consecutive days, involving treatment two (2) or more times by a health care provider, by a provider of health care services (e.g., nurse, physicians assistant, physical therapist) under the direction of a health care provider, and any subsequent incapacity or

treatment related to the same condition; or

- c. Incapacity for more than three (3) consecutive days, involving treatment at least once by a health care provider which results in a regimen of continuing treatment under supervision of a health care provider; or
 - d. Pregnancy - any period of incapacity due to pregnancy or prenatal care; or
 - e. A chronic condition that continues over an extended period of time, and that may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.), requiring periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under the supervision of a health care provider; or
 - f. A permanent or long-term period of incapacity due to a condition for which treatment may be limited such as Alzheimer's disease, severe stroke, or the terminal stages of a disease; or
 - g. A period of absence to receive multiple treatments by a health care provider (or to recover from treatment), or by a provider of health care services, either for restorative surgery after an accident or injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of treatment such as chemotherapy, radiation therapy, or dialysis.
 - h. An injury or illness incurred by a member of the Armed Forces, including a member of the National Guard or Reserves, incurred in the line of duty while on active duty, that
 - i. may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.
8. **Family Leave** - leave taken because of the birth or placement of a child with the employee, or

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Leave granted to an employee whose spouse, domestic partner, son, daughter, or parent is a service member on active duty or who has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

9. **Medical Leave** - leave taken because of the employee's own serious health condition or to care for a spouse, domestic partner, child or parent if they have a serious health condition

10. **Key Employee** - a salaried FMLA-eligible employee who is among the highest paid 10% of all the employees of the City.

11. **Twelve (12) month period** - the twelve (12) months immediately preceding the beginning of each new FMLA leave, or

A single twelve-month period during which an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to a combined total of twenty-six (26) weeks of leave to care for the service member. The leave shall only be available during a single twelve-month period.

12. **Active Duty**

Duty under a call or order to active duty, or retention on active duty of members of the uniformed services, or under any other provision of law during a war or during a national emergency declared by the President or Congress.

13. **Contingency Operation**

Means a military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations or hostilities against an enemy of the United States or against an

opposing military force.

14. **Covered Service Member**

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A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability list for a serious injury or illness.

15. Outpatient Status

The status of a member of the Armed Forces assigned to 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.

16. Next of Kin

The nearest blood relative of that individual.

17. Rolling Calendar

A rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. Each time an employee takes FMLA leave, the City will compute the amount of leave taken and subtract it from the twelve (12) weeks of available leave. The balance remaining is the amount the employee is entitled to take at that time, provided the employee has met the eligibility requirements for FMLA and submitted a completed FMLA certification form for approval.

402. OTHER LEAVE

402.1 Leave to Vote

Employees will be granted leave to vote in accordance with New Mexico law. Department directors should schedule time taken to vote so that offices remain open during normal working hours and the work of the department is affected as little as possible.

Departments will not grant time off with pay to any employee whose normal workday begins more than two (2) hours after the opening of the polls, or ends more than three (3) hours prior to the

closing of the polls. Time taken off for voting can be used for no other purpose.

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Department directors must grant this time off for voting if requested by employees registered to vote. Proof of registration and eligibility may be required.

Abuse of this time is considered just cause for disciplinary action up to and including termination.

402.2 Military Leave

A. Military Leave with Pay

The City grants military leave with pay to employees who are members of the National Guard, Air National Guard or any organized reserve unit of the Armed Forces of the United States, including the Public Health Service, to participate in annual training. The City also grants military leave to employees who are members of unorganized reserve components, as sanctioned by the State of New Mexico or the Federal Government for the purpose of attending organized courses of instruction or training. Employees called to active duty in emergencies declared by the Governor or the President will receive military leave with pay.

Military leave for these purposes will not exceed fifteen (15) workdays in each federal fiscal year, October 1 - September 30. A workday is considered eight (8) hours for purposes of military leave. This leave is in addition to other authorized leave, when an employee is ordered to active duty training with such units. Employees working part-time will receive military leave on a prorated basis. Once the fifteen (15) workday period is used, the employee is on leave without pay for the remainder of the absence. Military leave is paid at the employee's straight-time rate of pay for a forty (40) hour workweek.

Time in active duty status with the military will not count toward completion of probation.

B. Military Leave without Pay

The City grants military leave of absence as required by Federal law to employees who are required to serve on active duty as part of a Reserve or ROTC obligation or who voluntarily enlist for military service. Military leave for

these purposes and any other purpose not specified in 402.2.A is leave without pay. Military leave without pay is

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limited to a cumulative five (5) years during the course of the employee's employment. Any single period of leave is limited to the period of the tour of duty plus the time allowed by law for the employee to request reinstatement to employment. Employees may choose to use accrued vacation for part of the leave.

C. Request for Military Leave

To request a military leave of absence, the employee or his or her designated representative must attach a copy of the orders to a written request for military leave. In the event official orders are not issued the employee will be required to provide verification of attendance from their commander. All requests must be approved by the Human Resources Director.

402.3 Jury Duty

Employees who are called to serve on jury duty during normal work hours shall be paid at their regular pay for the time served as a juror. Employees shall reimburse the City for all compensation received for such service performed during normal work hours.

Employees are responsible for notifying their supervisor of jury duty as soon as possible.

Supervisors should adjust the employee's work schedule to Monday through Friday, 8:00 am to 5:00 pm, to accommodate the required jury duty.

402.4 Blood Donation (August 30, 2002)

Employees donating blood during an organized city sponsored blood drive will receive two (2) hours of leave with pay. Employees are required to obtain prior approval of the supervisor for the leave with pay through the submittal of a Request for Leave form accompanied by a donation certification.

402.5 Unpaid Leave Status

A. Leave of Absence

Classified non-probationary and unclassified employees may be granted an unpaid leave of absence of up to six (6)

months under certain conditions. To be eligible for this benefit, an employee must have twelve (12) months of

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continuous uninterrupted active employment immediately prior to the effective date of the leave of absence. A leave of absence under this section will not be granted for FMLA qualifying absences. The Chief Administrative Officer must approve requests for a leave of absence for thirty (30) calendar days or more but not exceeding six (6) months.

The position of an employee on an approved leave of absence will be held for the employee until their return to work. Vacation and sick leave balances will be held for the employee and will not be cashed out before or during the leave of absence. Employees will not accrue additional sick leave or vacation leave, or any other benefits while on a leave of absence. Employees must pay contributory benefits directly when in an unpaid status. Employees may not withdraw PERA contributions while on a leave of absence.

A leave of absence will only be granted if the department director certifies the department can continue to provide the required services during the employee's absence. Vacation, sick, donated leave or hardship leave may not be used to extend a leave of absence.

Failure to return to work after an approved leave of absence will result in termination. A Leave of Absence will not count as service credit for PERA retirement purposes.

Employees categorized as temporary, seasonal, student or part-time employees working less than twenty (20) hours per week are not eligible for a leave of absence.

B. Leave Without Pay

An employee may be granted leave without pay under certain conditions. Requests for leave without pay of up to two (2) calendar weeks may be approved by the department director. The Chief Administrative Officer must approve requests for more than two (2) calendar weeks but not exceeding twelve (12) months.

Employees may be granted leave without pay due to sickness or disability when certified by a qualified doctor of medicine, to attend school when it is clearly

demonstrated the subject matter is directly job related, for additional vacation time or for good and sufficient reason

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which the Chief Administrative Officer considers to be in the best interest of the City.

Except under unusual circumstances, voluntary separation to accept employment outside the City service shall be considered insufficient reason for granting leave without pay. Employees may not be granted leave without pay as an extension of physical layoff.

Employees must exhaust all accrued vacation and other paid leave, with the exception of sick leave, prior to receiving approval for leave without pay. If the request for leave without pay is related to a health or medical condition then all accrued sick leave must also be exhausted prior to receiving approval for leave without pay.

Positions will not be held open for employees that are granted leave without pay for more than thirty (30) days. It will be the employee's responsibility to contact the Human Resources Department no later than thirty (30) days prior to the end of the leave without pay period in order to allow sufficient time to locate an equal or lesser position, if possible.

The Human Resources Department will attempt to locate a position of equal or lesser grade or comparable pay to the employee's previous position.

Employees on leave without pay for eight (8) hours or more per pay period will not accrue sick or vacation leave or any other benefits. Employees must directly pay full contributory benefits when in an unpaid status for one (1) full pay period. Leave without pay will not count as service credit for PERA retirement purposes.

Leave without pay granted to a probationary employee is limited to sixty (60) calendar days and will result in the extension of the probationary period for an equal period.

An employee who fails to contact the Human Resources Department no later than thirty (30) days prior to the end of the leave without pay period or who refuses to accept an offer of placement into a position of equal pay or comparable grade will be terminated.

C. Absence Without Authorized Leave

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An employee who is absent from work without prior approval of the supervisor will be considered absent without authorized leave. Such leave will be subject to disciplinary action up to and including termination.

402.6 Administrative Leave

Chief Administrative Officer approval must be obtained prior to placing an employee on administrative leave.

- A. Administrative leave with pay may be authorized for a loaned executive. A written request for a loaned executive must be submitted to the Chief Administrative Officer, which includes the period of time, direct benefit to the City, and the specialty or expertise requested. The City will negotiate the terms and conditions of the loaned executive including salaries, benefits and operating expenses.

Requests for a loaned executive will be for a period not to exceed six (6) months, however the Chief Administrative Officer may extend the term under exceptional circumstances.

The loaned executive will prepare and submit a report of accomplishment to the Chief Administrative Officer and department director upon completion of the assignment.

- B. Administrative leave with pay may be authorized by the Chief Administrative Officer for services or activities of employees outside the scope of their employment, which can reasonably be anticipated, directly or indirectly, to benefit the City. Such leave will not exceed eighty (80) hours.
- C. An employee may be placed in administrative leave status during the period of an investigation. Such leave may be given with or without pay for good and sufficient reason that the Chief Administrative Officer considers to be in the best interest of the City service.

Administrative leave during an investigation shall be limited to thirty (30) workdays. Administrative leave in excess of fifteen (15) workdays shall require approval by a committee composed of the Director of the Human Resources Department, the Director of the Office of Employee Relations and the City Attorney or their

designees. During this period of time, the Chief

Administrative Officer may assign the employee duties and responsibilities that are of benefit to the City.

402.7 Managerial Leave

Employees who are exempt under FLSA are required to perform certain functions regardless of the number of hours required to complete assigned tasks. Departments are encouraged to use flexible work schedules, as appropriate. However, there are unusual circumstances when an extra demand is placed on an employee, which requires work involving a substantial number of hours that cannot be accommodated through flexible work schedules. Managerial leave is generally discouraged.

Managerial Leave is paid leave granted to management series employees who may be required to perform work in addition to or outside of their regular work schedules at the discretion of department directors. Routine or periodic meetings or assignments outside of the normal workday are not considered justification for managerial leave.

Managerial leave may be granted only as the result of a pre-existing plan or program authorized by the Chief Administrative Officer which provides specific criteria, including the maximum award for such leave. Managerial leave is not intended to compensate salaried employees on an hour-for-hour basis for work performed in addition to and/or outside of their regular work schedules. Departments are responsible for ensuring conformance with all applicable documentation procedures for leaves of absence.

Managerial leave must be utilized within one calendar year of the award. Managerial leave hours not utilized during this period will be dropped from the record at the end of the calendar year. Managerial leave may not be converted to cash payment under any circumstances.

Managerial leave is not intended to limit a department director's responsibility for or discretion in specifying the working time of employees as provided for in Section 302 of these regulations.

403. INSURANCE AND RETIREMENT

Information on insurance and retirement benefits may be obtained from the Human Resources Department, Insurance and Benefits Division.

403.1 Group Life Insurance

Employees hired into classified or unclassified positions working twenty (20) hours or more per week, receive life insurance protection effective the date of hire at no cost to the employee. The amount of protection is determined according to the employee's basic annual earnings. Protection will be adjusted annually, if necessary, to correspond to pay rate changes. Upon terminating the group life insurance will cease on the last day of employment. Upon retirement an employee will continue to be covered by the City's plan at no cost to the employee. Coverage will be one-half of the coverage reflected on the most recent annual life insurance adjustment report immediately prior to retirement.

Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible to participate in the Group Life Insurance programs.

403.2 Optional Supplemental Life Insurance

Employees hired into classified or unclassified positions working twenty (20) hours or more per week, their spouses and dependent children may participate in supplemental life insurance program offered by the City. Spouse, domestic partner and dependents are eligible to be included on the same date the employee becomes insured, within thirty-one (31) days of the date the employee acquires an eligible dependent, during the annual open enrollment period or upon a qualifying event. Other enrollments or changes may be made at any time. However they are subject to approval by the insurance company underwriter.

The total premium cost is the responsibility of the employee with no contribution by the City.

Supplemental life insurance will continue through the end of the pay period in which the employee terminated. Conversion may be made to an individual policy when City employment ceases.

Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible to participate in the Supplemental Life Insurance programs.

403.3 Health and Dental Insurance

Employees in classified or unclassified positions working twenty (20) hours or more per week, are eligible for health and dental

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insurance. Employees may enroll without a medical examination within thirty-one (31) days of the date on which employment begins or during the annual open enrollment period.

Coverage begins on the first day of the pay period immediately following submittal of enrollment documents when enrollment forms are submitted within the thirty-one (31) day eligibility period but after the first day at work. If new hires elect to submit the enrollment forms before their first day of work, coverage may then begin on the first day of work. Spouse, domestic partner and dependents are eligible to be included on the same date the employee becomes insured, within thirty-one (31) days of the date the employee acquires an eligible dependent, during the annual open enrollment period or upon a qualifying event. All information recorded by the insured on the City enrollment form is subject to verification. The City and the employee share the cost of contributory premiums. The City retains the right to modify the plan of benefits or premium structure during annual renewal negotiations.

Employees are required to notify the City Insurance and Benefits Office of a divorce, legal separation or changes in status of a dependent child within thirty (30) days after the date of the event. Failure to provide notification will result in cancellation of benefit coverage for dependents.

Under the Health Insurance Portability and Accountability Act (HIPPA) an employee may enroll within thirty-one (31) days of the date the employee marries or acquires a child through birth or adoption.

Employees categorized as temporary, seasonal, student, intern, or part-time working less than twenty (20) hours per week are not eligible to participate in the Group Life Insurance programs.

403.4 Reinstated Employees

Employees reinstated, as the result of an administrative or judicial action must contact the City's Insurance Office within thirty-one (31) days of reinstatement to arrange for health care benefits if there was participation prior to cancellation of benefits. Documentation authorizing the reinstatement must be provided to the City's Insurance Office at the time of enrollment.

403.5 Loss of Non-City Sponsored Health Care Coverage

Classified or unclassified employees working twenty (20) hours or more per week and/or eligible dependents covered under a non-City sponsored health care plan that is terminated through no fault of the insured may enroll under a City health care plan within thirty-one (31) days of termination of prior coverage. Employees must submit proof of prior coverage and proof of termination of coverage.

403.6 Payment of Insurance During Leave Without Pay

Employees in an unpaid status for one (1) full pay period or longer must make arrangements for direct payment of contributory insurance benefits. Failure by employees to make direct payments will result in cancellation of optional contributory insurance coverage. Employees will not be allowed to re-enroll until the next open enrollment period.

403.7 Payment of Insurance While on Military Leave

The City will continue to contribute its share of insurance premiums for the first thirty (30) days of military leave without pay. After that, an employee may choose to continue City health insurance for up to eighteen (18) months by making direct payments of the entire premium. Upon reinstatement after tour of duty, employees are permitted to re-enroll.

403.8 Continuation of Health Insurance

The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 provides for the continuation of health care coverage for a covered employee and covered dependents due to a qualifying event that causes loss of health coverage.

To be eligible for COBRA coverage, the qualified beneficiary must be enrolled in the City's group health plan on the day before the qualifying event takes place, or a child is born to or placed for adoption with a covered employee during the COBRA coverage period.

A qualifying event is defined as termination of employment (other than for gross misconduct) or reduction in hours of employment; death of a covered employee, a divorce or legal separation of a spouse from a covered employee; entitlement to Medicare of a covered employee; the child no longer satisfies the plans definition

of a dependent child.

COBRA continuation coverage may be available for eighteen (18) months in the event of termination or thirty six (36) month in the event of death, divorce/legal separation, entitlement to Medicare or loss in dependent status.

The covered employee or dependent is required to notify the City Human Resources Department, Insurance and Benefits Office of a divorce, legal separation, or change in the status of a dependent child within sixty (60) days after the date of the event. If notification is not received within this time period, COBRA continuation coverage will not be provided.

403.9 Public Employees' Retirement Association (PERA)

Eligible employees are required by State of New Mexico law to join the Public Employees Retirement Association of New Mexico (PERA). State law regulates PERA benefits.

A percentage of the employee's gross pay will be deducted each pay period, consistent with the plan currently in effect for the employee group. Injury time, with the exception of Light Duty and other unpaid absences will not be applied to the employee's service credit for PERA purposes.

Employees leaving the City service may withdraw their portion of PERA contributions or, if they have five (5) or more years of service, may choose not to withdraw such contributions and draw retirement benefits when eligible. Employees are encouraged to contact the Human Resources Department, Insurance and Benefits Division for additional information.

Employees are eligible for a retirement pension as follows:

- 20 years, any age, Police and Fire
- 25 or more years of service, any age
- 20 or more years of service, age 60
- 17 or more years of service, age 61
- 14 or more years of service, age 62
- 11 or more years of service, age 63
- 8 or more years of service, age 64
- 5 or more years of service, age 65

403.10 Early Retirement

Immediately prior to retirement from active service with the City of Albuquerque an employee may take leave with pay equivalent to the amount of sick and vacation leave the employee has accumulated. Employees who are eligible for retirement and are under the provisions of a collective bargaining agreement will be governed by the provisions of that agreement.

Employees in Early Retirement are not entitled to salary increases afforded other City employees.

Employees in Early Retirement are entitled to all benefits except vacation and sick leave accruals, donated leave and hardship leave.

403.11 Retirement Benefits

Employees should plan to begin processing for retirement at least three (3) months prior to the projected date of retirement. Potential retirees should submit a memorandum to their department director advising them of their intent to retire, which should include an effective date. A copy of this memorandum and current confirmation from PERA confirming service credit time must be submitted to the Human Resources Department Insurance and Benefits Division for final processing and approval.

Retiring employees may convert their accrued vacation or sick balances to cash payment within one (1) month of their retirement date by submitting a written request to the Human Resources Department Insurance and Benefits Division for review and approval by the Human Resources Director.

Retiring employees and eligible dependents may elect to transition into the Retiree Health Insurance Plan offered by the State of New Mexico.

404. EMPLOYEE INCENTIVE PROGRAM

The City of Albuquerque may develop methods of rewarding employees through a reward, bonus, leave with pay or any other form of award or extra compensation, in addition to the regular benefits entitled a classified or unclassified employee, as long as all of the following conditions are met:

- A. The award results from a pre-existing plan or program authorized by the Chief Administrative Officer which sets up a specific criteria for such extra compensation; and

- B. Employees render service that is outside of and in addition to the normal requirements and expectations of their employment; and
- C. The City reasonably anticipates some tangible or intangible benefit from such service.

At the discretion of the director, departments choosing to implement an employee incentive program shall present to the Chief Administrative Officer a specific plan for approval. These plans shall include, but not be limited to, the following:

- A. The method of selection of awardees, including the composition of selection boards.
- B. The criteria under which employees will be nominated as well as ultimately selected, as awardees.
- C. The suggested frequency with which it is proposed these awards will be given.
- D. The anticipated number of employees who will be honored at a given frequency.
- E. The amount of leave with pay to be granted by the department.
- F. The amount of cash award to be made available to awardees.

The amount of leave with pay and the amount of cash awarded may be up to three (3) days of paid leave and up to \$750 per employee. Programs may offer leave with pay or cash awards or both. Department directors, assistant directors, division and program heads, and others of similar rank are excluded from departmental incentive award programs.

Upon approval of a department's incentive program, the Chief Administrative Officer will recommend the amount of funds to be budgeted to the department for implementation of the program. Award of any funds beyond the budgeted amount will require the prior approval of the Chief Administrative Officer.

Department directors are responsible for administering these programs to enhance operational performance and productivity.

This regulation does not govern programs sponsored by service clubs or similar service groups and pertains solely to the use of City funds as incentives for employees. Departments may grant each individual within a team or group an award based on the above amounts.

Failure to receive an award under this Section is not grievable.

405. Credit for Vacation and sick Leave Balances to Another Governmental Entity (June 28, 2006)

When the operation of a facility, which is jointly administered and financed by the City and another governmental entity, is transferred from the city to another governmental entity, those city employees who are entitled to compensation for vacation leave, as specified in Section 401.2 and for sick leave, as specified in section 401.4 E, will be compensated only if, and to the extent that, such vacation leave and sick leave are not credited by the new governmental entity.