

## **ARTICLE 17 - LEAVE WITHOUT PAY AND SPECIAL LEAVE**

### **17.1 Definitions**

#### **17.1.1 Common Definitions**

The following are terms used in this article that have definitions in Article 3:

- Bereavement Leave;
- Family Leave;
- Funeral Leave;
- Immediate Family;
- Job-Related Disability;
- Maternity Leave; and
- Paternity Leave.

### **17.2 Maternity/Paternity/Adoption Leave**

Employees shall be entitled to use available accrued sick leave, annual leave and leave without pay for up to a maximum of six (6) months for purposes of prenatal care, childbearing and/or for caring for newly-born or adopted children. An employee's available FMLA leave will run concurrently with Maternity /Paternity/Adoption Leave, up to 12 weeks. Employees are eligible for this leave for a period of up to 12 months after the birth or placement of a child. These employees are required to give thirty (30) days advance notice, if possible, for such leave. Additional Maternity/Paternity/Adoption Leave or use of this type of leave not expressly set forth herein may be awarded only upon written authorization of the City Manager, or designee.

### **17.3 Family and Medical Leave**

The City of Las Vegas is a covered employer under the Family and Medical Leave Act (FMLA). The FMLA provides up to 12 weeks per year of paid or unpaid family and medical leave to eligible employees to take leave for the birth of a child, adoption or placement in foster care of a child and the care of a seriously ill child, spouse or parent, or for the employee's own serious health condition. To be eligible, an employee must have worked for the City of Las Vegas for a total of 12 months, and had worked at least 1,250 hours within the year immediately preceding the request for leave. Leave is designated as FMLA either when the City designates it, or when the employee has completed the FMLA application and approval process. A combination of paid and unpaid leave will run concurrently as FMLA-designated leave for up to a 12 week period, according to appropriate policy and bargaining contract procedures. Leave must be designated by the employee as FMLA at the time of usage. The employee's timekeeper will track all FMLA hours used.

When the need for leave is foreseeable based on planned medical treatment, the employee is required to give thirty (30) days advance notice when possible to his/her supervisors to receive consideration for FMLA protection. The employee's supervisor must contact the Insurance Services Division of the Department of Human Resources to request an application be provided to any employee who demonstrates they may require FMLA protection. Employees who satisfy the legal requirements of the Public Law 103-3, Family and Medical Leave Act (FMLA) of 1993, will be granted unpaid, protected time off. If such time is granted:

- 1) Under the rights afforded the FMLA, the City may require the employee to submit to an evaluation to obtain a second medical opinion at the City's expense.
- 2) The City may designate leave as FMLA qualified when an employee misses three consecutive shifts, or has three intermittent absences for the same FMLA-qualified serious health condition.
- 3) Employees off work for their own serious medical condition for over five (5) days may be required to pass a fitness for duty physical in order to return to work.
- 4) Employees taking family or medical leave will be returned to the same or an equivalent job upon returning to work from such leave.

Employees on FMLA protected time off will normally be at a residence for the purpose of recuperating, at a medical facility, or at a facility purchasing personal items and/or medications for their own illness or for the illness of their family member. If the employee is on extended sick leave under the FMLA, they are responsible for notifying the Department Director, or designee, of their primary location and return to work status.

Employees taking leave under the FMLA who are in a non-paid status must make arrangements with the Benefits Section of the Insurance Services Division for payment of any insurance premiums (dependent health insurance, supplemental life, short-term disability, etc.) Failure to arrange for premium payments will result in termination of coverage.

#### **17.4 Military Leave**

When an employee enters a recognized branch of the Armed Forces of the United States, whether voluntarily or involuntarily, the following shall apply:

- 1) The employee shall be granted military leave without pay for the duration of the employee's active service.
- 2) An employee granted military leave and later honorably discharged or discharged as a result of disability shall be restored to his/her former classification or to a like classification. To qualify for such restoration, the employee must apply for reinstatement within ninety (90) calendar days of discharge. Such restoration is further contingent upon the City's circumstances having not changed in such a manner as to make such reinstatement impossible or unreasonable and upon determination by the City Manager that the employee is able to perform the duties and responsibilities of the position.
- 3) An employee so restored shall be granted accrued seniority, benefits or other compensation in accordance with applicable Federal laws or regulations.
- 4) Persons who are employed to fill positions vacated as a result of the incumbent being placed on military leave shall be so notified at the time of their appointment. Such appointments may be made on a temporary basis if the incumbent is on military leave for a period of less than one year. Any persons employed on a non-temporary basis in positions vacated as a result of military leave may be subject to reassignment, transfer, reduction in grade, or termination shall be done in accordance with reduction in force procedures specified in this agreement and the City of Las Vegas Civil Service Rules.
- 5) Any employee holding reserve status in any of the regular branches of the Armed Forces of the United States or the Nevada National Guard who is obligated or ordered to serve

on training duty shall be granted military leave for a period not to exceed fifteen (15) work days in any one calendar year, as provided in NRS 281. Compensation during such leave shall be the normal gross salary that the employee receives from the City, excluding overtime. The employee shall be entitled to retain any Armed Services pay earned during the training duty.

- 6) When an employee is ordered to report for a pre-induction physical, time spent up to three (3) days shall be considered an emergency military leave and shall be granted with pay upon presentation of such orders to the employee's immediate supervisor.

### **17.5 Court Witness or Jury Duty Leave**

Employees called to serve on jury duty or subpoenaed to appear as a witness in a court proceeding shall receive their regular City pay. Employees who serve on a jury for one week or less are not required to turn in to the City any fees paid as a result of jury duty. Employees who report for jury duty for period in excess of one week will be required to submit their jury duty payment to the City Treasurer. Employees who are called but not selected to serve on a jury, or who complete the day's jury duty prior to the end of their normal shift shall report back to work. Employees who work a swing or graveyard shift shall be excused for the day(s) that they are required to report for jury duty. Those persons who are called as witnesses shall report back to work when excused by the court or tribunal. This section shall not apply to persons whose appearance in court is the result of their status as defendants in a criminal proceeding or to persons called or appearing as a party in civil proceedings unrelated to City business. Other than being a juror, this section shall not apply to persons whose appearance in court proceedings is unrelated to City business.

### **17.6 Leave Without Pay**

#### **17.6.1 Eligibility**

Leave Without Pay may be granted or imposed by the Department Director, or designee, to employees for:

- 1) Purposes normally covered by sick leave, annual leave or Time in Lieu OF (TILO) when such leave has been exhausted
- 2) Purposes of extending leave covered under the Family and Medical Leave Act (FMLA) or the city's Maternity/Paternity/Adoption Leave provision when sick leave, annual leave, other accrued leave or Time in Lieu Of (TILO) has been exhausted
- 3) Disciplinary action
- 4) Pursuing an education
- 5) Serving in the military
- 6) Recovering from a job-related injury or illness
- 7) Participating in political activities (requires City Manager approval)

#### **17.6.2 General Requirements**

An employee taking approved Leave Without Pay shall exhaust appropriate paid leave balances prior to taking unpaid leave. Employees on approved LWOP shall not be requested to perform,

nor should they independently perform, any work for which they would normally be paid. LWOP for non-medical reasons should not be combined intermittently with paid work status. If the Department Director, or designee, determines an employee on approved LWOP (for non-medical reasons) must perform work for the City, the Director, or designee, shall officially approve the employee's return to work for the duration of the assignment. The Director, or designee, must officially approve the change of status in writing, and notify the payroll section. At the conclusion of the assignment the employee should be officially placed back on LWOP status if applicable. Employees on approved LWOP for medical reasons, campaigning for political office or serving as an elected official will not be required to perform work. Any status change may not violate other provisions of this policy. Any employee on full-time LWOP status shall not have access to use City equipment or resources.

#### 17.6.3 Leave Without Pay for Non-Medical Reasons

An employee must have justifiable reason for requesting LWOP for non-medical reasons. Examples of LWOP situations may include, but are not limited to:

- 1) An employee requires personal time off but has exhausted/does not have accumulated annual leave, donated leave or TILO.
- 2) An employee receiving compensation as a non-City elected official while serving in that capacity.

#### 17.6.4 Leave Without Pay for Medical Reasons

An employee may require sick time but does not have accumulated sick leave, annual leave, donated leave or TILO.

Employees on LWOP, due to medical necessity, may request approval to work on an intermittent basis (part-time). Intermittent or part-time work will only be considered on a transitional basis. The request for intermittent or part-time work must be approved by the Department Director, or designee, and the Human Resources Department, and is subject to business necessity. The request shall specify the part-time schedule the employee is requesting, and the duration of the transitional assignment (not to exceed six months). This transitional work assignment may not violate any provisions of City policies.

#### 17.6.5 Approval of Use of Leave Without Pay

In general, Leave Without Pay for periods in excess of thirty (30) consecutive calendar days shall only be awarded to regular, full-time appointive and classified employees.

All LWOP must be approved by the employee's department director, or designee, and non-medical Leave Without Pay for periods in excess of thirty (30) consecutive calendar days must also be approved by the City Manager, or designee.

Leave Without Pay for medical reasons must be approved by the employee's Department Director, or designee, and the Human Resources Department. An employee on Leave Without Pay for medical reasons will normally be at a residence for the purpose of recuperating, at a medical facility, or at a facility purchasing personal items and/or medications, and shall be

responsible for notifying the department director, or designee, of his/her primary location, contact information and return to work status during the leave period.

Leave will be used in the following order of precedence:

- 1) Sick Leave (if employee is sick or on medical leave)
- 2) Vacation/Birthday Holiday/TILO (after sick leave is exhausted, if employee is sick or on medical leave).

Available paid leave must be exhausted before Leave Without Pay may be used.

Employee's who are on extended leave (Maternity, Paternity, FMLA, Sick) will need to use any paid leave hours on their first shift(s) of the pay period in accordance with the order of precedence.

#### 17.6.6 Leave Without Pay During a Pay Period With a Holiday

If the employee is in a full-paid status for one full shift, either before or after the holiday, and has some paid status for the opposite shift before or after the holiday, then the employee is entitled to the holiday off hours. If the employee is in LWOP status during the shift preceding the holiday then holiday pay will not be granted.

#### 17.6.7 Impact On Benefits During Leave Without Pay

Service Credit. Except for military leave and Leave Without Pay resulting from job-related injury or illness, periods of LWOP in excess of thirty (30) days shall not be credited for purposes of annual or sick leave accrual rates, completion of probation (when appropriate), merit increases, seniority (when appropriate) or longevity. The employee's service date shall be adjusted to reflect the actual length of time the employee was actively working for the City of Las Vegas.

Service credit within the state's Public Employees' Retirement System (PERS) will be adjusted to reflect any LWOP.

Sick and Annual Leave Accrual. Leave Without Pay for periods in excess of thirty (30) consecutive calendar days, which are authorized for job-related illness or injury, shall be credited for purposes of determining annual or sick leave accrual rates, seniority and longevity, and may be credited for purposes of completion of probation or for salary increases upon recommendation of the employee's department head and approval of the Director of Human Resources and the City Manager.

Insurance Premiums. Employees on LWOP for periods in excess of thirty (30) days are required to make arrangements with the Insurance Services Division of the Human Resources Department to directly pay for any dependent coverage or supplemental insurance they may have if they wish to continue coverage for dependents under these plans. Failure to do so may result in loss of coverage for the employee's dependents.

While an employee is in LWOP status for medical reasons only, the city will continue to pay for all employer-provided insurance coverage for the employee only for up to twelve (12) months, just as if the employee were in active status. Employees in LWOP status for non-medical

reasons in excess of thirty (30) days will need to make arrangements with the Insurance Services Division of the Human Resources Department to directly pay for insurance coverage or supplemental insurance.

#### 17.6.8 Separation

Employees on leave without pay status for a period in excess of 12 months may be separated from City employment upon notice to the employee and the Association. The 12 month period includes any unpaid leave granted under the Family and Medical Leave Act. The separation will be considered a resignation and therefore, employees who are able and capable of returning to work within 12 months following separation can request to be placed on a rehire list in accordance with Civil Service Rules. All entitlement under this provision will end 12 months following the employee's date of separation.

#### **17.7 Application and Examination Leave**

An employee may be permitted reasonable time off with pay during his/her shift to make an application and/or take an examination for promotional or transfer opportunities within the City, when it is not possible or practical to do so during non-working time. All such absences shall be scheduled with the employee's supervisor. In no case shall an employee become eligible for overtime as a result of leave for a promotional or transfer opportunity.

#### **17.8 Blood Donor Leave**

Employees may be granted reasonable paid time off for the purpose of donating blood when participating in a City-authorized and/or sponsored blood donation drive or special need. No employee shall be eligible for overtime as a result of donating blood. All such absences shall be scheduled with the employee's supervisor.

#### **17.9 Catastrophic Leave**

##### 17.9.1 Main Policies and Procedures

1. When an eligible employee (See "Eligible Employees" - Paragraph 9.) suffers a catastrophic illness or injury, and the eligible employee has or will have exhausted all accrued leave prior to returning to work, the eligible employee may file a request for donations of leave with the LVCEA. The employee must exhaust all accrued sick and annual leave prior to using any leave donated under the program.
2. The request must be accompanied by:
  - a) A medical statement from the attending physician, explaining the nature of the illness/injury, and an estimated amount of time the employee will be unable to work.
  - b) Evidence of the Department Director's approval of a leave of absence.
3. A committee ("The Committee") appointed by the LVCEA President will review the request to verify the employee's eligibility to receive leave donations.

4. The LVCEA will conduct the solicitation of donations and will be limited to an information-only solicitation, with no personal lobbying by employees. Solicitations will be conducted for a two-week period of time and all donations will be submitted to the Finance Department on a form provided by the LVCEA. Leave solicitations will be limited to two times per employee per illness or injury.

5. Donations can be made from the donor's TILO time, Annual leave, Sick leave and/or floating holiday. Sick leave donations will only be allowed from the employee's payable hours (those hours that the employee would receive cash payment for upon separation from City employment.) Employees with less than five (5) years of classified service are not eligible to donate sick leave. Employees with more than five (5) years service but less than twenty (20) years service will have fifty (50%) percent of their non-surplus sick leave donation credited to catastrophic leave and the remaining (50%) percent will be credited to the employee's surplus bank hours with more than twenty (20) years service, as defined in the sick leave article, will have 100% of their non-surplus sick leave donation credited to catastrophic leave. Employees with a sick leave balance above their cap may donate accrued, sellable hours as defined in the sick leave article.

6. The minimum donation is four (4) hours. Employees must have a leave balance of at least forty (40) hours after the donation in the type of leave donated.

7. The LVCEA will forward notification of the time donations to the Treasurer's office, where the donated time will be converted to dollars at the hourly rate of the donor. If any donated sick leave hours remain at the end of the catastrophic leave, they will remain in a catastrophic leave bank for future use.

8. Bank hours, if any, may be approved by the committee on a matching basis, if needed, (e.g. a solicitation for an approved employee nets 100 hours, the committee may approve up to another 100 hours from the bank, if hours are available).

9. Eligible Employees:

- a) The Catastrophic Leave Program is available to all LVCEA bargaining unit employees, appointive employees, and confidential employees. (I.A.F.F. Local 1285, L.V.P.O.A., L.V.P.P.A., Temporary, and Hourly employees are not eligible for this program.)
- b) Employees must be off probation and/or at least be employed by the City for six (6) months prior to becoming eligible for the Catastrophic Leave Program.
- c) Employees must meet the following definition of catastrophic illness/injury: "Catastrophic illness/injury is an illness or accident experienced by an eligible employee that keeps that employee from performing the duties of his/her job, (i.e., hospitalized or home bound). The illness or accident cannot be a result of an illegal act, nor can it be self-inflicted." Employees may not use catastrophic leave to care for a family member.
- d) Employees with a work-related Workers' Compensation claim are not eligible for the Catastrophic Leave Program.

- e) Any employee who receives catastrophic leave benefits and is subsequently awarded workers' compensation benefits shall reimburse the catastrophic leave bank for all benefits received that are covered by workers' compensation payments.
- f) If allowed by the City's long-term disability (LTD) provider, catastrophic leave may be used to supplement LTD payments. The employee may not receive more than 100% of his or her salary as a result of this supplement. Normal salary includes: longevity but excludes overtime, shift differential and other compensation.

10. The parties agree that should any problem arise in the administration of this paragraph or any abusive practice should arise, that the parties agree to meet to make reasonable adjustments to facilitate the administration of the program or to eliminate any abusive practices.

#### 17.9.2 Supplemental Policies and Procedures

1. Catastrophic Leave benefits are not available if the time off from work due to an illness or injury does not or will not exceed ninety (90) days, as time off from work of less than ninety (90) days due to an illness or injury is not considered to be catastrophic in nature.
2. Catastrophic Leave benefits cannot be requested if the illness or injury of any person other than the employee (e.g., a family member's illness or injury of a catastrophic nature would not qualify the employee to receive Catastrophic Leave benefits).
3. An employee requesting Catastrophic Leave benefits must submit a Catastrophic Leave Agreement Form to the Catastrophic Leave Committee accompanied with a medical statement in compliance with this agreement.
4. Request for Catastrophic Leave benefits will be processed on a first-come basis.
5. In accordance with federal laws governing medical privacy, the Donation Request Form shall not include any information relating to the requesting employee's illness or injury condition. Information relating to the requesting employee's number of years of City service, age, marital status and number of children and their ages will be included on the form unless the employee requests, in writing, that such information in whole or in part, not be included.
6. An employee making a request for Catastrophic Leave benefits must agree to indemnify and hold the LVCEA, its officers, directors, trustees, members and employees harmless from any lawsuits, claims or damages for failure on the part of the City to process the request in a timely manner.
7. In the event a Supplemental benefit is being paid, as set forth in Article 17(H)(9)(f) above, the employee will be eligible to continue drawing the Supplemental benefit until (i) the employee returns to active work/duty, or (ii) all donated Catastrophic Leave hours have been exhausted. However, under no circumstances will any benefits be paid from the Catastrophic Leave Bank beyond one hundred eight (180) calendar days from the date the employee was required to be absent from duty on a continuous basis.

### **17.10 Bereavement Leave**

Employees who are required to absent themselves from work to attend to matters related to an impending or subsequent death and or funeral of a member of their immediate family. Sick or Annual Leave shall be granted for a maximum of five (5) days per occurrence. In extraordinary circumstances, additional leave may be granted by the Department Head.

### **17.11 Funeral Leave**

Employees may be granted up to 4 hours of annual leave to attend a funeral of an acquaintance or co-worker on short notice. Whenever possible, such leave should be requested at least one day in advance.

### **17.12 Voting Leave**

The City of Las Vegas agrees to allow time off from work for the purpose of voting according to the provisions of NRS 293.463, which reads as follows:

1. Any registered voter may absent himself from his place of employment at a time to be designated by the employer for a sufficient time to vote, if it is impracticable for him to vote before or after his hours of employment. A sufficient time to vote shall be determined as follows:
  - a. If the distance between the place of such voter's employment and the polling place where such person votes is 2 miles or less, 1 hour.
  - b. If the distance is more than 2 miles but not more than 10 miles, 2 hours.
  - c. If the distance is more than 10 miles, 3 hours.
2. Such voter may not, because of such absence, be discharged, disciplined or penalized, nor shall any deduction be made from his usual salary or wages by reason of such absence.
3. Application for leave of absence to vote shall be made to the employer or person authorized to grant such leave prior to the day of the election.
4. Any employer or person authorized to grant the leave of absence provided for in subsection 1, who denies any registered voter any right granted under this section, or who otherwise violates the provisions of this section, is guilty of a misdemeanor.

In the event the State of Nevada changes the provisions of NRS 293.463 it is understood that this section would change accordingly. This section is not subject to the grievance and arbitration process.

### **17.13 Safety and Health Fair Leave**

Employees may be granted reasonable time off with pay to attend Safety and Health Fairs. This section is not subject to the grievance and arbitration process.

### **17.14 Volunteer Leave**

Employees may be granted up to five (5) days per year either without pay or through the use of annual leave for the purpose of volunteering to provide help or service to a charitable organization. This section is not subject to the grievance and arbitration process

**17.15 Documentation**

The City may require appropriate documentation to substantiate any type of leave granted under this article.