

PERSONNEL POLICY 93-4

**SUBJECT:** Family and Medical Leave

**PURPOSE:** To provide uniform guidance for the implementation of the Family and Medical Leave Act of 1993 as it applies to City of Clarksville employees.

**APPLICABILITY:** All City of Clarksville regular employees, and certain part-time employees.

**REFERENCES:**

- a. Sec. 1-1320 Maternity Leave, Clarksville City Code and Personnel Policy 91-2 dated July 1, 1991.
- b. Sec. 1,1321, Leave of Absence, Clarksville City Code
- c. Sec 4-21-408, Maternity Leave, Tennessee Code Annotated
- d. Family and Medical Leave Act of 1993
- e. Personnel Procedure 91-4, Sick Leave Transfer Program dated September 5, 1991.

A. **POLICY STATEMENT:** The City of Clarksville will comply with the provisions of the Family and Medical Leave Act (FMLA) and such other applicable laws which pertain to granting leave benefits to employees.

B. **DEFINITIONS:**

1. Family and Medical Leave Act (FMLA) is the law passed by the U.S. Congress and signed into law by President Bill Clinton on February 5, 1993, and implemented upon adoption of this procedure by the Clarksville City Council, or August 5, 1993, whichever occurs first.

2. Maternity leave refers to the Tennessee law regarding maternity leave as codified in TCA 4-21-408.

3. Eligible employee means an employee who has been employed for at least 12 months by the City and who has worked at least 1250 hours during the previous 12 month period. This eligibility requirement does not pertain to female employees who are or become pregnant.

3. Employment benefits means all benefits provided by the City of

Clarksville including group life insurance, health insurance, disability insurance, (if provided), sick leave, annual leave, and retirement benefits.

5. Health care provider means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices.

6. Parent means the biological parent of an employee or one who stood in loco parentis (in place of a parent) to an employee when the employee was a son or daughter.

7. Serious health condition is an illness, injury or impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care practitioner.

8. Son or daughter means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis who is under 18 years of age or one who is 18 years of age or older and incapable of self-care because of a mental or physical disability.

9. Intermittent Leave or reduced schedule leave is leave taken in a manner other than in a single block of several weeks.

C. GENERAL:

1. Eligible City of Clarksville employees shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

a. Because of the birth of a child of the employee and in order to care for such son or daughter. Exception to this provision is granted to female employees who give birth to a child. In this situation, the provisions of Personnel Policy 91-2, Maternity Leave, dated July 1, 1991, apply.

b. Because of the placement of a son or daughter with the employee for adoption or foster care.

c. In order to care for the spouse, or a son, daughter or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

d. Because of serious health conditions that make the employee unable to perform the functions of the position.

2. If a husband and wife both work for the City of Clarksville, and request leave because of the birth of a child, the wife is entitled to request up to 4 months (120 calendar days) of maternity leave as provided by TCA 4-21-408 and the husband is entitled to request up to 12 weeks (84 calendar days) of FMLA-protected leave.

3. If a husband experiences a serious illness and needs the entire 12 workweeks, the wife is also entitled to take the full 12 weeks to care for him. The reverse is also applicable if the wife has a serious illness.

4. If the mother-in-law or father-in-law of an employee has a serious illness, the husband and wife can only take the 12 weeks between them.

5. Advance notice. Where leave is foreseeable, an employee must provide at least 30 days advance notice that he or she intends to take it. Advance notice is required because of:

- a. the expected birth of a child;
- b. the expected placement of a child for adoption or foster care;
- c. planned medical treatment for a son, daughter, spouse, or parent with a serious condition; or
- d. planned medical treatment in the case of the employee's own serious health condition.

6. Intermittent leave may be taken by the employee when "medically necessary". Such intermittent leave may also be taken with a baby is born or a child is placed for adoption or foster care, but only if the Department Head consents.

7. In any situation involving leave because of a serious health condition involving the employee or an applicable family member, the employee will provide medical certification of the medical condition and the need for the leave from the health care provider. The contents of the certification will contain as a minimum.

- a. the date the condition began,
- b. the probable duration of the condition;
- c. the appropriate medical facts regarding the condition; and,
- d. a statement that the employee is needed to care for the ill family member or (in the case of his or her own illness) is unable to perform his or her job.

If intermittent leave is sought, the health care provider must state that this kind of leave is medically necessary and the amount of time that leave on that basis will be needed.

8. In the event of an absence under the provisions of this procedure, the employee may choose to use sick leave, annual leave or leave of absence without pay. Employees who have a serious health condition as described above may, after use of all sick and annual leave, apply for additional leave through the Sick Leave Transfer Program under the provisions of Personnel Procedure 91-4.

9. Accrued sick leave may be used for any of the purposes cited in paragraph 7 a-d. The employee may not use accrued sick leave however for bonding following the birth of a child or placement for adoption or foster care. Accrued sick leave may be taken in order to care for a sick child. Accrued annual leave may be used for birth, placement or to care for a sick family member, or after use of accrued sick leave because of the employee's own serious illness.

10. Health insurance benefits will be continued at the level and under the conditions that coverage would have been provided if the employee had continued employment.

11. The Department Heat may require an employee who is using leave under these provisions to "report periodically" on the status of the situation and the intention of the employee to return to work. "Periodically" is defined loosely, but it is deemed reasonable that the employee would report at least once every two weeks. The Department Heat may also require the employee to provide subsequent recertifications of the medical condition on a "reasonable basis". "Reasonable" is defined as every 4-6 weeks.

12. Maternity Leave. Maternity leave as defined in TCSA 4-21-408 and Personnel Policy 91-2 is less restrictive than the provisions of the Family and Medical Leave Act, 1993, therefore female employees who are or become pregnant will be governed by the provisions of Personnel Policy 91-2. The husband will be governed by the procedures outlined herein.

13. Eligible employees who use Family and Medical Leave, Maternity Leave or Leave or Absence will be returned to their same position or one which is substantially equivalent to their former position.

14. Questions regarding this policy or matters which require resolution with regard to the provisions of this procedure will be directed to the Human Resources Director.

OFFICIAL DOCUMENT

APPROVED BY THE CITY COUNCIL: JULY 1, 1993

EFFECTIVE DATE: JULY 1, 1993

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SAM PODURGAL, DIRECTOR OF HUMAN RESOURCES