

Personnel Rule 7.3 – Leave of Absence

7.3.0 Authority

RCW 1.16.050 – Legal Holidays and Legislatively Recognized Days

SMC 4.04.030 and subsequent revisions thereto, Definitions

SMC 4.04.040 and subsequent revisions thereto, Administration

SMC 4.04.050 and subsequent revisions thereto, Rule-Making Authority

SMC 4.20.060 and subsequent revisions thereto, Credit for Unpaid Absences

SMC 4.34.055 and subsequent revisions thereto, Use and Scheduling of Vacation

Americans With Disabilities Act of 1990, and Civil Rights Act of 1964 (Regulations to Implement the Equal Employment Provisions at 29 CFR Part 1630)

7.3.1 Definition

- A. "Appointing authority" shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City, or a designated management representative. The term includes and can be used interchangeably with department head, department director, superintendent, or chief.
- B. "Leave of absence for medical reasons" shall mean an unpaid absence longer than 15 calendar days but no longer than 12 months that an appointing authority may grant to an employee who needs time off for recovery from his or her own personal illness or injury.
- C. "Leave of absence for personal reasons" shall mean an unpaid absence longer than 15 calendar days but no longer than 12 months that an appointing authority may grant to an employee for reasons other than his or her own personal illness or injury.
- D. "Seattle Human Resources Director" shall mean the head of the Seattle Department of Human Resources or his or her designated management representative.
- E. "Probationary employee" shall mean an employee who has been appointed to a position within the classified service but who has not completed a one-year period of probation.
- F. "Regularly appointed employee" shall mean an individual with a probationary, regular or exempt appointment to a position of City employment.
- G. "Seniority" shall mean a regular employee's length of continuous service in his or her current classification and all higher classifications since original appointment to that classification, excluding any break in service occasioned by a quit, resignation, retirement or discharge.

7.3.2 Application of this Rule

- A. The provisions of this Rule apply to regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- C. This Rule does not apply to individuals who are employed under the terms of a grant that includes leave of absence provisions that conflict with this Rule.
- D. This Rule does not apply to individuals hired by the City on a temporary, intermittent or seasonal basis, or for a work schedule of fewer than 20 hours per week, nor does it apply to individuals hired under contract to the City.
- E. Appointing authorities may establish written policies and procedures for the implementation and administration of this Rule to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

7.3.3 Leave of Absence

- A. An employee may request, and the appointing authority may grant a leave of absence without pay for a maximum of 12 consecutive months for personal or medical reasons. The appointing authority shall not approve an unpaid leave of absence for medical reasons if the employee's request qualifies for Family and Medical Leave and he or she has not exhausted the unpaid Family and Medical Leave entitlement. A leave of absence granted as a reasonable accommodation to a qualified individual with a disability shall be administered under Rule 7.3.4.
- B. All terms and conditions of an unpaid leave of absence, including whether the employee's job will be held for his or her return, shall be established in writing by the appointing authority prior to the commencement of the leave.
 - 1. An employee shall have no greater right to reinstatement than if he or she had been continuously working during the leave period.
 - 2. In order to monitor the employee's medical progress and to manage workload issues arising from his or her absence, the appointing authority may require an employee to produce certification from a health care provider of the continuing need for an unpaid leave of absence for medical reasons on a regular basis but not more frequently than once every 30 days. The appointing authority may withhold approval of each additional period of leave pending receipt of such certification.
 - 3. The appointing authority may require a medical release upon the employee's return from leave of absence for medical reasons to verify that the employee is able to perform the essential functions of the job. If the appointing authority has approved an unpaid leave of absence for medical reasons that runs concurrently with the employee's Family and Medical Leave, the medical certification and release protocols of the Family and Medical Leave program apply.

4. An employee whose request for an unpaid leave of absence for medical reasons is approved shall not accept employment elsewhere, either paid or unpaid, without the prior approval of the appointing authority.
- C. With the approval of the appointing authority, an employee need not exhaust the paid leave balances for which he or she is eligible prior to taking a personal leave of absence. However, an employee's accumulated sick leave must be used before an employee is granted a leave of absence for medical reasons for which he or she is not receiving workers' compensation benefits.
 - D. All requests for a personal or medical leave of absence shall be made by the employee in writing to his or her appointing authority. Such requests shall specify the general nature of the request (e.g., "personal illness," "extended vacation," etc.) and the employee's expected date of return to work.
 - E. Extension of a leave of absence beyond 12 months requires the concurrence of both the appointing authority and the Seattle Human Resources Director.
 - F. An employee who fails to return to work from a personal or medical leave of absence for any reason and who does not obtain the appropriate approvals for an extension of or an additional leave of absence shall be treated as a voluntary quit. The appointing authority will provide the employee written notice via personal delivery or certified mail of this intended personnel action. If the employee fails to respond to the notice within five business days of the notice being sent, the personnel action will be final on the date the leave of absence was scheduled to end.

7.3.4 Leave of Absence as an ADA/WLAD Reasonable Accommodation

- A. The appointing authority shall approve an unpaid leave of absence for medical reasons as a reasonable accommodation under the Americans with Disabilities Act (ADA) and the Washington Law Against Discrimination (WLAD) under the following conditions, except where such leave of absence constitutes an undue hardship.
 1. A leave of absence shall be approved when the employing unit and the Seattle Human Resources Director have been otherwise unable to accommodate the employee's disability with modifications to the employee's job, work environment, or other conditions of employment, or with a reassignment to another job for which the employee is qualified, with or without accommodation. The purpose of a leave of absence approved under this Rule is to permit the employee and the City to continue to search for an appropriate job placement.
 2. A leave of absence shall be approved when the employee's disabling condition is not stabilized, making modifications to his or her job, work environment or other conditions of employment premature. The purpose of a leave of absence approved under this Rule is to provide the employee with time for such treatment or rehabilitation as is necessary to stabilize his or her condition.

- B. The appointing authority may require such job-related medical information as is necessary to ascertain the appropriateness of a leave of absence as an accommodation.
- C. A leave of absence approved as an accommodation under ADA/WLAD shall be unconditional. However, depending on the employee's disability, the guarantee of restoration may be to City employment rather than to a specific position. In addition, the employee's right to restoration is no greater than if he or she were not on leave of absence.
- D. A leave of absence approved as an accommodation under ADA/WLAD shall not exceed 12 months duration without the concurrence of the appointing authority and the Seattle Human Resources Director.
- E. If, at the end of the leave of absence, the employee is unable to perform the essential functions of any available job for which he or she is qualified, with or without accommodation or no appropriate job vacancy exists, the employee may resign or may be separated as a voluntary quit.

7.3.5 Unpaid Religious Days

- A. Pursuant to the authority of RCW 1.16.050, an employee is entitled to two unpaid days per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. These days shall be taken in increments of a whole calendar day and may not be carried over from year to year.
- B. An employee may take the unpaid religious days at any time with supervisory approval. The employee's supervisor or other management representative may deny the use of an unpaid religious day if the employee is necessary to maintain public safety, or if the employee's absence creates an undue hardship as defined by the Washington State Office of Financial Management.
- C. Effect of unpaid religious days on an employee's service credit shall be consistent with Personnel Rule 7.3.6.
- D. The City will continue to provide reasonable accommodation based on religion under federal law to employees who seek accommodation in addition to the two unpaid days.

7.3.6 Effect of Unpaid Leave on Service Credit

- A. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall have any period(s) of unpaid leave deducted from his or her service credit for purposes of calculating seniority for layoff.

- B. A probationary employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave, or who takes paid leave authorized under Personnel Rule 7.6, Vacation; Personnel Rule 7.8, Sick Leave and Sick Leave Transfer; or Personnel Rule 7.9, Bereavement Leave shall have his or her probationary period adjusted for any period(s) of absence in excess of 30 working days.
- C. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall have any period(s) of absence deducted from his or her service credit for purposes of calculating retirement eligibility and benefit, if applicable.
- D. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall have his or her next salary increment date adjusted for any period(s) of absence in excess of the equivalent of 240 regular pay hours.

7.3.7 Unpaid Leave Limitations

No period of unpaid leave or combination of unpaid leaves granted under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall exceed 12 months except with the prior approval of the appointing authority and the Seattle Human Resources Director.