

Personnel Rule 7.1 – City Family and Medical Leave

7.1.0 Authority

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 4.26 and subsequent revisions thereto, Family and Medical Leave

SMC 4.30 and subsequent revisions thereto, Documentation of Eligibility for Certain Uses of Sick Leave and Funeral Leave

SMC 4.36.155 and subsequent revisions thereto, Determination of Creditable Service

Title 50A RCW, Washington State Paid Family and Medical Leave (SPFML)

Family and Medical Leave Act of 1993 (FMLA) as amended (Regulations at 29 CFR, Chapter V, Section 825)

7.1.1 Definitions

- A. “Active duty” shall mean duty under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13).
- B. “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, and chief.
- C. “Child” shall mean a biological, adopted, or foster child, a stepchild, a legal ward, or the child of a person standing in loco parentis, who is under 18 years of age, or who is 18 but incapable of self-care because of a mental or physical condition at the time the leave is to commence.
- D. “Contingency operation” has the same meaning given such term in 10 U.S.C. § 101(a)(13).
- E. “Covered servicemember” shall mean:
 - 1. 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 outpatient status, or is otherwise on the temporary disability retired

- list, for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. A veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces and who was a member of the Armed Forces at any time during the period of 5 years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy.
 3. Any other individual who is a "covered servicemember" under the terms of the federal Family and Medical Leave Act and its implementing regulations.
- F. "Department Human Resources Representative" shall mean an employing unit's representative authorized by the department appointing authority to process employee's City Family and Medical Leave requests consistent with this Personnel Rule.
- G. "Domestic partner" shall mean an individual with whom an employee shares the same regular and permanent residence, has a close personal relationship, and has agreed to be jointly responsible for basic living expenses incurred during the domestic partnership. To qualify to use City FML to care for a domestic partner, an employee must file an affidavit of domestic partnership in a form prescribed and furnished by the Seattle Human Resources Director with their employing unit attesting that:
1. They are not married to anyone, and
 2. They and their domestic partner is 18 years of age or older, and
 3. They are not related by blood closer than would bar marriage in Washington, and
 4. They were mentally competent to consent to contract when their domestic partnership began, and
 5. They are each other's sole domestic partner, and are responsible for each other's common welfare; and
 6. Any prior domestic partnership in which the employee or their domestic partner participated with a third party was terminated not less than 90 days prior to the date the employee files an affidavit of domestic partnership, or by the date of the death of the third party, whichever was earlier, and, if such earlier domestic partnership had been acknowledged pursuant to [SMC] subsection 4.30.010.A or 4.30.010.B, that notice of the termination of such earlier domestic partnership was provided to the City pursuant to Section 4.30.030 not less than 90 days prior to the date of such affidavit;
- H. "Equivalent position" shall mean a position in which the employee enjoys the same status, seniority, rate of pay and benefits.
- I. "Family and Medical Leave" shall mean properly certified paid or unpaid leave taken by an employee for a qualifying condition. The Family and Medical Leave

entitlement is pro-rated for part-time employees.

- J. “Grandchild” shall mean the child of the employee’s child.
- K. “Grandparent” shall mean the parent of the employee’s parent.
- L. “Intermittent or reduced leave schedule” shall mean paid or unpaid Family and Medical Leave that is taken sporadically or that results in a temporary reduction of the employee’s normal work schedule, respectively.
- M. “Military exigency” means a necessity arising out of the fact that a servicemember is on active duty or call to active-duty status. “Military exigency” has the same meaning as set forth in the federal Family and Medical Leave Act and its implementing regulations, including:
 - 1. Short notice deployment
 - 2. Military events and related activities
 - 3. Childcare and school activities
 - 4. Financial and legal arrangements
 - 5. Counseling
 - 6. Rest and recuperation
 - 7. Post-deployment activities
- N. “Next of kin,” used with respect to an individual, means the nearest blood relative of that individual.
- O. “Outpatient status,” with respect to a covered servicemember, shall mean the status of a member of the Armed Forces assigned to one of the following:
 - 1. A military medical treatment facility as an outpatient
 - 2. A unit established for the purpose of providing command and control of members of the Armed forces receiving medical care as outpatients.
- P. “Parent” shall mean the biological, step or adoptive mother or father of the employee or the employee’s spouse or domestic partner. Parent includes an individual who stood in loco parentis to the employee when the employee was a child; i.e., an individual who acted as a parent and who had day-to-day responsibilities to care for and financially support the employee. A legal or biological relationship is not necessary.
- Q. “Part-time employee” shall mean an employee whose authorized work schedule is at least twenty (20) hours but less than forty (40) hours per week.
- R. “Probationary employee” shall mean an employee who has been appointed to a position within the classified service but who has not completed a 1-year period of probation.
- S. “Pro-Rated” shall mean the total number of City FML hours a part-time employee is entitled to and is calculated as a proportion based on their part-time work schedule.

1. When the part-time employee's weekly scheduled work hours vary from week to week, the total City FML hours the part-time employee is entitled to will be calculated by averaging the hours scheduled over the 12 months preceding the pay period in which the leave is set to begin (including any hours for which the employee took leave of any type).
 2. When an employee's status is changed from part-time to full-time or from full-time to part-time during the 12 months preceding the pay period in which the leave is set to begin, the total City FML hours the employee is entitled to will be calculated by averaging the weekly hours scheduled over the 12 months preceding the pay period in which the leave is set to begin (including any hours for which the employee took leave of any type).
- T. "Regularly appointed employee" shall mean an individual who has a probationary, trial service, regular or exempt appointment to a position of City employment. It does not include temporary workers, interns, or other workers who are not in a regular position.
- U. "Rolling 12-month period" shall mean a 12-month period measured backward from the first day that an employee takes unpaid Family and Medical Leave; each time an employee takes Family and Medical Leave the remaining leave entitlement would be any balance of the leave hours which has not been used during the immediately preceding 12 months.
- V. "Runs concurrently" shall mean substitution for or counting toward another leave entitlement.
- W. "Seattle Human Resources Director" shall mean the head of the Seattle Department of Human Resources or their designated management representative.
- X. "Seniority" shall mean a regular employee's length of continuous service in their present class and all higher classes since original appointment to that class, excluding any break in service occasioned by a quit, resignation, retirement, or discharge.
- Y. "Serious health condition" shall mean an illness, injury, 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 provider.
- Z. "Sibling" shall mean a sibling of the employee.
- AA. "Single 12-month period" shall mean a 12-month period in which Covered Servicemember Family Medical Leave and other types of FML Leave may be taken for a total of 26 work weeks measured forward from the first day family medical leave is taken and ending 12 months after that date.
- BB. "Spouse" shall mean a spouse of the employee.
- CC. "Status" shall mean the condition of being exempt, probationary, or regular in the current position or class.

7.1.2 Application of this Rule

- A. This Rule applies 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. Criteria related to whether this Rule applies 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 is addressed in Personnel Rule 11 Temporary Employment..
- D. This Rule does not apply to individuals performing services under contract with the City.
- E. This Rule does not apply to individuals who are employed under the terms of a grant that includes family and medical leave provisions that conflict with this Rule.
- F. 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.

7.1.3 City Family and Medical Leave

The City complies with the federal Family and Medical Leave Act of 1993 as amended and the Washington State Paid Family and Medical Leave and its implementing regulations, except where the City ordinance provides a greater benefit.

A. Eligibility

- 1. All full-time employees who have completed six months of employment; and
- 2. Are experiencing one or a combination of one or more qualifying conditions consistent with Personnel Rule 7.1.3(B) are eligible for unpaid City Family and Medical Leave.

B. Qualifying Conditions

An employee may take unpaid City Family and Medical Leave for any 1 or a combination of the following reasons:

- 1. The non-medical care of the child of the employee or of the employee's spouse/domestic partner after birth;
- 2. The placement of a child with the employee or their spouse/ domestic partner for adoption, foster care, or legal guardianship;
- 3. The care of the employee's spouse/ domestic partner, or a child or parent of the employee or their spouse/domestic partner who has a serious health condition;
- 4. The care of the employee's grandparent, grandchild, or sibling who has

a serious health condition; or

5. The employee's own serious health condition that makes the employee unable to perform the functions of their job.
6. A military exigency for the spouse or /domestic partner, child, parent, grandparent, grandchild, or sibling of the employee.
7. The care of a spouse or domestic partner, parent, child, grandparent, grandchild, sibling, or next of kin who is a covered servicemember and has a serious illness or injury.

C. Leave Entitlement

1. The City's Family and Medical Leave Program provides for
 - i. Up to the equivalent of 520 regular work hours (90 calendar days) of unpaid leave per rolling 12-month period for a combination of one or more qualifying conditions consistent with Personnel Rule 7.1.3(B), except for leave to care for a covered servicemember (Personnel Rule 7.1.3(B)7); or
 - ii. Up to 26 workweeks per single 12-month period for the care of a covered servicemember.
2. The City Family and Medical Leave entitlement is pro-rated for part-time employees consistent with Personnel Rule 7.1.1(S).
3. The total combined leave for covered servicemember care and all other categories of family and medical qualifying leave may not exceed 26 work weeks in a single 12-month period.
4. Where an employee and their spouse/domestic partner both work for the City, each is entitled to up to the maximum amount of City Family and Medical Leave.
5. An employee is eligible to take City Family and Medical Leave on an intermittent basis or reduced leave schedule where the leave is taken for a serious health condition of the employee or an eligible family member and such intermittent or reduced schedule leave is medically necessary. An employee is also eligible to take City Family and Medical Leave on an intermittent basis or reduced leave schedule for a qualifying military exigency, regardless of medical necessity. Intermittent and reduced leave schedule City Family and Medical Leave may be taken in 15-minute increments. Any paid leave taken for a City Family and Medical Leave-qualifying reason may also be taken in 15-minute increments.
6. An employee who takes City Family and Medical leave on an intermittent or reduced leave schedule for planned medical treatments may be temporarily transferred to a position that better accommodates the intermittent or reduced leave schedule. The position to which the employee is transferred must have equivalent pay and benefits. The employee must be restored to the position from which the employee was transferred when their City Family and Medical Leave terminates or their entitlement expires. The hours worked in the alternate position do not count against the employee's City Family and Medical Leave entitlement.

7. The entitlement to the equivalent of 520 regular work hours of unpaid leave for qualifying events consistent with Personnel Rule 7.1.3(B), except for leave to care for a covered servicemember (Personnel Rule 7.1.3(B)7) is per rolling 12-month period measured backward from the current date. The entitlement to 26 work weeks of unpaid leave for the care of a covered servicemember is per single 12-month period from when the leave begins.
8. The entitlement to City Family and Medical Leave taken for the non-medical care of the employee's newborn child or a child placed with the employee or their spouse/domestic partner for foster care, adoption, or legal guardianship expires 12 months after the birth or placement of the child. Leave taken for this reason must be concluded by the first anniversary of the child's birth or placement. City Family and Medical Leave taken for the non-medical care of employee's newborn child or a child placed with the employee or their spouse/domestic partner for foster care, adoption, or legal guardianship can be taken continuously or intermittently. An employee's use of intermittent leave for the non-medical care of their newborn child, or newly placed child, must be mutually agreed upon by both the employee and their department appointing authority or a designated management representative. The agreement must be documented in writing and signed by both parties.
9. The leave benefit provided by this Personnel Rule 7.1 shall run concurrently with federal and state family and medical leave laws, except where the employee or the leave is not eligible for family and medical leave under state or federal law. Where an employee has exhausted City Family and Medical Leave but is entitled to other leave by law, the terms and conditions of such law shall apply.
 - i. Leave taken under City Family and Medical Leave for the care of an employee's sibling, grandparent, or grandchild parent-in-law, or domestic partner shall not run concurrently with an employee's Federal Family and Medical Leave entitlement.
 - ii. Leave taken under City Family and Medical Leave before twelve months of employment with the City shall not run concurrently with an employee's Federal Family and Medical Leave entitlement.
10. An employee who has been approved for City Family and Medical Leave, shall be entitled to all of the Federal Family and Medical Leave Act benefits and protections wherever these run concurrently.
11. Leave taken under City Family and Medical leave shall run concurrently with an employee's Federal Family and Medical Leave Act entitlement hours only when the employee is eligible and entitled for both of these leaves.
12. Leave taken under City Family and Medical leave shall run concurrently with an employee's Washington State Paid Family and Medical Leave entitlement hours only when the employee is eligible and entitled for both of these leaves.
13. An employee may use any paid leave balance to cover an absence for a City Family and Medical Leave-qualifying condition. The City Family and Medical Leave-qualifying condition must satisfy the requirements of the paid leave

program utilized as well. The employee's use of paid leave may be instead of or in addition to unpaid City Family and Medical Leave. Paid leave taken for a Family and Medical Leave-qualifying condition is subject to the protections provided under Personnel Rule 7.1.3(D) as long as it is properly certified.

D. Leave Protections

1. An employee is entitled to take City Family and Medical Leave if the employee has a qualifying condition consistent with Personnel Rule 7.1.3(B) and if the employee meets the eligibility requirements as outlined in Personnel Rule 7.1.3(A).
2. An employee must be reinstated to the position from which the employee took City Family and Medical Leave or to an equivalent position. The employee's right to restoration to the same or equivalent position is no greater than if the employee had been continuously working.
3. The City shall maintain an employee's coverage under one of the City's group health plans while on City Family and Medical Leave at the level and under the conditions the coverage would have been provided if the employee had continued in employment continuously for the duration of such leave. If the employee fails to return from unpaid City Family and Medical Leave for any reason other than a continuation, recurrence, or onset of their serious health condition or because of other circumstances beyond the employee's control, the employee may be required to reimburse the City for such coverage. A service or disability retirement, or a return to work for a minimum of 30 days prior to separation shall be considered a return to work for purposes of this Rule.
4. An employee's paid or unpaid absences that are designated and certified as City Family and Medical Leave-qualifying cannot be used as the basis, in whole or in part, for an adverse personnel action.

E. Notice and Certification Requirements

2. The appointing authority or designated management representative shall conspicuously post the United States Department of Labor bulletin, "Your Rights Under the Family and Medical Leave Act of 1993" and the City's bulletin, "Notice to Employees Explaining Family and Medical Leave Benefits, Conditions and Obligations."
3. The appointing authority or designated management representative shall conspicuously post the Washington State Employment Security Department (ESD) job poster titled, "Paid Time Off. Peace of Mind."
4. It is the responsibility of the department Human Resources representative or designated management representative to inform employees when their absences may qualify for City Family and Medical Leave and/or Federal Family and Medical Leave and designate their leaves as such.
5. It is the responsibility of the department Human Resources representative or designated management representative to inform employees when their absences may qualify for Washington State Paid Family and Medical Leave within 5

business days:

- i. After an employee's 7th consecutive day of absence due to a family or medical leave reason; or
 - ii. After the City becomes aware that the employee's absence is due to a family or medical leave reason
6. Employees shall provide at least 30 days' advance notice of the need and reason to take City Family and Medical Leave when the need for leave is foreseeable. In the case of an unforeseen need for leave, employees shall provide notice of the need and reason to take City Family and Medical Leave as soon as possible. If an employee is unable to provide notice of the need and reason for leave, the City shall accept notice from the employee's representative.
7. When City Family and Medical Leave is taken for the employee's serious health condition or the serious health condition of the employee's spouse/domestic partner or the child or parent of the employee or their spouse/domestic partner, the employee shall furnish and submit to their department Human Resources representative the City Family and Medical Leave health care provider's certification of the condition and the need for leave.
8. When City Family and Medical Leave is taken for a qualifying military exigency, the employee shall provide a copy of the servicemember's active-duty orders or other documentation issued by the military to their department Human Resources representative which indicates that the covered military member is on or will be called to active duty in support of a contingency operation.
9. When City Family and Medical Leave is taken for the non-medical care of the employee's newborn child or a child placed with the employee or their spouse/domestic partner for foster care, adoption, or legal guardianship, the employee shall furnish and submit to their department Human Resources representative the City Family and Medical Leave bonding leave application with a copy of the record of birth/placement to certify their leave.
10. An employee's leave cannot be denied pending receipt of a health care provider's certification of the serious health condition. The employee shall be placed on provisional City Family and Medical Leave. If the employee fails to provide adequate certification within 15 calendar days of their notification of the need and reason for City Family and Medical Leave, their leave taken to date shall be converted to unprotected paid leave or unpaid leave, as appropriate, unless 15 calendar days is not practicable under the particular circumstance despite an employee's diligent, good faith efforts.
11. An employee who takes vacation, sick leave, personal holidays, compensatory time off, or executive or merit leave for a City Family and Medical Leave-qualifying condition shall be subject to the notice and certification requirements of the City Family and Medical Leave program.
12. The department Human Resources representative may require recertification of an employee's need for continuing City Family and Medical Leave, but may not require such recertification more often than every 30 days.

7.1.4 Return to Work

- A. An employee shall be required to provide a medical release to return to work when leave has been taken for their own serious health condition. The department's Human Resources representative shall inform the employee of this requirement at the time that the employee's leave is designated as City Family and Medical Leave. If the employee is not informed of this need for a medical release when their leave is designated as City Family and Medical Leave, the department Human Resources representative may not require the medical release.
- B. An employee who is released to return to work before their City Family and Medical Leave expires shall notify the appointing authority to schedule a return date. If the employee does not want to return before the end of the original leave, the appointing authority has the discretion to approve an unpaid personal leave of absence for the duration.
- C. An employee who fails to return from City Family and Medical Leave or who continues on unpaid leave after their City Family and Medical Leave is exhausted shall not be entitled to maintenance of their health care coverage or restoration to their position unless the employee is eligible for and the appointing authority approves a discretionary sabbatical leave of absence under Personnel Rule 7.4, which provides for health care coverage.
- D. An employee who fails to return to work from leave on the date they are scheduled to return without prior written approval of additional leave under another leave rule or policy shall be treated as a voluntary quit or job abandonment, pursuant to Personnel Rule 6.1. The appointing authority shall provide the employee written notice via First Class Mail Return Receipt with Signature Required of the intended personnel action and the employee's opportunity to request a pre-separation meeting with the appointing authority to provide mitigating information. If the employee fails to respond in writing to the notice within five (5) business days of receipt of the notice, the personnel action will be deemed final and effective, as of the scheduled return-to-work date.

7.1.5 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 their service credit for purposes of calculating seniority for layoff.
- B. An employee who has exhausted their City Family and Medical Leave entitlement for the care of their own serious health condition and was placed on a leave of absence as a reasonable accommodation in accordance with Personnel Rule 7, shall need to have been medically returned from leave before re-requesting City Family and Medical Leave.
- C. 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, Funeral Leave shall have their probationary period adjusted for any period(s) of absence in excess of 30 working days.

- D. An employee who takes unpaid City Family and Medical Leave, whether or not it runs concurrently with Federal Family and Medical Leave may continue to pay their contributions to the retirement system in exchange for retirement service credit; otherwise, any period of unpaid City Family and Medical Leave is deducted from their service credit. Departments should encourage employees to contact the Retirement Office to understand how unpaid leave impacts their retirement benefits.
- E. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, City 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 their next salary increment date adjusted for any period(s) of absence in excess of the equivalent of 240 regular pay hours.

7.1.6 Unpaid Leave Limitations

No period of unpaid leave or combination of unpaid leaves granted under Personnel Rule 7.1, City 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.