

## FAMILY LEAVE POLICY

The City of Dinuba recognizes the family is the basic unit of society. Family economic issues demonstrate a link between family security and worker productivity. Additionally, family trends are changing with the demands of dual working spouses and single parents. In compliance with the Federal Family and Medical Leave Act of 1993 and the California Family Rights Act of 1991 (amended October 1, 1993), the City of Dinuba has adopted this Family Leave Policy to balance the health and welfare of its employees with the needs of the organization.

### I. THE POLICY

Employees who have worked at least 1,250 consecutive work hours during the previous 12 months or at least 12 non-consecutive months of employment are eligible for unpaid leave for the following:

- \* Birth of a child of an employee, and to care for a newborn (maternity and/or paternity);
- \* The placement of a child with an employee in connection with the adoption of the child or foster care of the child by the employee;
- \* The serious health condition of a child, parent or spouse of the employee;
- \* The serious health condition that makes the employee unable to perform the functions of the position;

### II. DURATION

Leave may be taken in increments of at least one-half hour. Reduced-schedule or intermittent leave is available in cases of family illness or the employee's own illness. Maximum time that may be taken is twelve workweeks of leave during any 12-month period. The plan year is based upon the date the employee first takes leave. Leave entitlement is to be prorated according to the employee's normal working schedule. For part-time employees meeting leave requirements, a prorated leave will be granted based upon the average number of hours worked in the 12 weeks prior to the scheduled date of the leave.

If both husband and wife are employees of the City, an aggregate number of workweeks of leave to which both may be entitled may be limited to twelve workweeks during any twelve month period unless the leave involves a serious health condition of their own, or caring for a sick child, spouse or parent.

An employee's entitlement to leave for birth or placement of a child expires twelve months after the birth or placement.

Employees may take four months of pregnancy disability leave and still be entitled to the maximum amount of family leave.

### III. LEAVE REQUESTS

In the instance of a birth, adoption or placement of foster child, the employee must provide as much advance written notice as possible, with a minimum of 30 days notice if employee is aware. If knowledge of the event is less than 30 days, written notice should be given as soon as possible, at a minimum of 5 working days from learning of the need, unless unforeseeable. Granting of leave requests shall be issued within ten days of receipt of the request. Requests for leave as a result of an emergency shall not be refused on the basis that appropriate notice was not given. Written requests shall be submitted to the Department Head who shall then make a recommendation on granting the leave to the City Manager.

### IV. CERTIFICATION

Before granting the leave, the City may request medical certification of said serious health condition. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the employee's position. Subsequent recertifications may be required on a reasonable basis, but not more often than every 30 days, except for extenuating circumstances. In the instance of the employee's serious health condition, the employee shall provide medical certification releasing the employee to return to work only with regard to the particular health condition that caused the need for the leave.

Medical certification shall be provided within 15 calendar days after it is requested or as soon as reasonably possible under the particular facts and circumstances. If the employee fails to provide medical certification within a reasonable time under the pertinent circumstances, the City may deny the employee's leave or continuation of leave. If medical certification is not provided at the time the employee seeks reinstatement after leave taken for the employee's serious health condition, restoration may be denied until the certification is provided.

If the employee fails to furnish certification for an emergency leave, the employer may consider that no valid family and medical leave exists, and the employee can be terminated for failure to report to work.

The City may require, at its own expense, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning information certified. Where the second opinion differs from the first, the City may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the City and employee concerning the information that was certified. The opinion of the third health care provider shall be considered final and binding of the employer and employee.

#### V. BENEFITS

All health benefit plans shall be maintained at the same level and under the same conditions as at the time of onset of leave, including any changes which would have taken place had the employee not been on leave. If the employee fails to return to work from unpaid leave, premiums may be recovered unless the failure to return is because the original serious medical condition still exists or there are extenuating circumstances beyond the employee's control.

Generally, family care leave is unpaid leave. However, the employee may elect, or the City may require, that the employee substitute accrued vacation time or other paid leave for unpaid leave taken for family leave purposes other than the individual's own serious health condition. An employee may elect or an employer may require an employee to take paid sick time if the leave is for the employee's own serious health condition. The employee must specify his/her wish at the time leave is requested.

An employee who becomes ill while on unpaid leave may have such period of illness charged to his/her accumulated sick leave provided that the employee submits to the Department Head a written request for sick leave and a written statement signed by the employee's physician stating the dates of the illness.

#### VI. PERFORMANCE EVALUATIONS/SALARY INCREASES

The employee shall be entitled to any unconditional pay increases which may have occurred during the leave (i.e., cost of living allowance). Merit increases based upon satisfactory job performance shall be granted upon completion of the evaluation.

Performance evaluations scheduled to occur during a regular employee's leave shall be postponed until the employee returns from leave and has worked at least 9 months of the evaluation period. Special evaluations scheduled shall be postponed until the employee returns to work. Probationary employees must complete the full portion of the probationary period (6 months and 1 year) before being evaluated for merit increases.

#### VII. SCHOOL CONFERENCES

Employees shall be allowed to take up to forty (40) hours each year to participate in his/her child's school activities, but not more than eight (8) hours per month of the school year and not more than 40 hours per employee. Leave shall be deducted from accrued vacation, compensatory time or administrative leave, to the extent that it is available. Employees may be required to provide documentation from the school verifying participation.

#### VIII. PREGNANCY

The right to take family care leave is separate and distinct from the right to take pregnancy disability leave. If an employee takes pregnancy disability leave for the maximum four months allowed under Government Code §12945, because of her disability caused by her pregnancy, childbirth or related medical conditions, she is then entitled to an additional twelve weeks of family care leave for a total of up to seven months leave. Employees taking pregnancy leave pursuant to §12945 may not be required to use vacation time. No more than the maximum leave shall be allowed than for a single birth or placement, even in the event of multiple births or placements.

The family care leave shall terminate in the unlikely event of a newborn infant's death or the removal of an adopted or foster care child.

### REINSTATEMENT

At the end of the leave, the employee shall be reinstated to his or her previous position or its equivalent with equivalent benefits, salary, terms and conditions. Employees retain "employee" status while on family care leave. The leave does not constitute a break in service for purposes of seniority.

If an employee fails to provide in a timely manner a requested medical certification or if leave has been obtained fraudulently by the employee, the employee is not protected by either the Federal or State family leave acts' job restoration and maintenance of health benefits provisions.

## X. DEFINITIONS

Child includes a biological, adopted or foster child, stepchild, legal ward, or a child of a person standing "in loco parentis" (in place of a parent) who is either under age 18, or an adult dependent child. Also includes close family members.

Close Family Member includes grandparents, parents-in-law, grandchildren, or adult children.

Health Plans include medical, dental, vision, life, long-term disability, and accidental death & dismemberment.

Parent includes biological, foster or adoptive parent, a stepparent, or legal guardian. Also includes close family members.

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

Spouse is a husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage in States where it is recognized. Also includes close family members.

The terms and conditions of this policy shall not preempt Federal and/or State regulations in place at the time the family care leave request is received.