

POLICY: FAMILY MEDICAL LEAVE ACT AND NEW JERSEY MEDICAL LEAVE ACT:

It is the policy of the City of Camden to provide unpaid leave as provided by the Family Medical Leave Act (FMLA) and the New Jersey Family Leave Act (NJFLA). The acts are intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity.

PROCEDURE

The following steps must be complied with when seeking leave under FMLA and/or NJFLA. For additional information regarding the following steps see the Informational Section below.

- STEP 1:** Determine Eligibility (See **A** and **B** in the Information Section)
- STEP 2:** Determine Type of Leave to Request – continuous, intermittent or reduced (See section **C** in Information Section.)
- STEP 3:** Give Proper Notice (See **D** in Information Section)
- STEP 4:** Certification of Health Care Provider must be filled out completely (See **E** in Information Section)
- STEP 5:** All forms in “Employee Request for Family or Medical Leave” packet must be picked up and returned immediately to the Personnel Office.

NOTE: In the event that an employee fails to follow steps 1 through 5, the City of Camden may still designate an absence from the work place as Family Leave

INFORMATION SECTION

A. How is Eligibility Determined?

1. Employees are eligible for leave benefits under the FMLA if they have been employed by the City for at least twelve (12) months, and must have worked at least 1,250 hours during the twelve months period immediately preceding the commencement of the leave.
2. Employees are eligible for leave benefits under the NJFMLA if they have been employed by the City for at least twelve (12) months, and have worked at least 1,000 hours during the twelve month period immediately preceding the employees request for leave. Overtime hours are excluded.

B. How do you determine if the reason for seeking leave is an Eligible Reason under FMLA and/or NJFLA?

1. Birth of a child of the employee – **(BOTH)**
2. Placement of a child with the employee for adoption of such child by the employee – **(BOTH)**
3. Placement of a son or daughter with the employee for foster care **(FMLA)**
4. Provide care made necessary by reason of a serious health condition of a family member of the employee **(NJFLA)**
5. To care for a spouse, son, daughter, or parent of the employee with a serious injury or health condition **(FMLA)**
6. Employee’s own serious health condition that makes the employee unable to perform the functions of the position of such employee **(FMLA)**
7. Nursing home place of transfer issues for family members **(BOTH)**
8. To care for a spouse, child, parent or next of kin in the armed forces, including the National Guard and Reserves that returned injured from recent active duty and is undergoing medical treatment, recuperation or therapy, is on an outpatient status or is otherwise on the temporary disability retired list for a serious injury or illness **(FMLA - 26 WEEKS)**

9. For a qualifying exigency because the employee's spouse, child or parent is on active duty or impending call or order to active duty in the armed forces, including the National Guard and Reserves in support of a "contingency operation". (FMLA 12 - WEEKS)

C. How is the Type of Leave/Duration and Form of Leave Determined?

1. An eligible employee is entitled to a total of up to twelve (12) workweeks of leave during any twelve (12) month period. **(FMLA)**
2. An eligible employee is entitled to take up to twelve 12 workweeks of leave during any twenty-four (24) month period **(NJFLA)**
3. In some circumstances, the employee may take the leave on an intermittent or reduced schedule **(BOTH)**
4. An eligible employee is entitled to a total of twenty-six (26) workweeks of leave during any ONE twelve (12) month period. (FMLA – Military Provision – See Section B8)
5. An eligible employee is entitled to a total of twelve (12) workweeks of leave during any twelve (12) month period. (FMLA – Military Provision – See Section B9)

NOTE: The total period during which in intermittent leave may be taken may not exceed a twelve (12) month period for **EACH** serious health condition. Intermittent leave in connection with more than one serious health condition must be taken within a consecutive twenty-four (24) month period, or until the employee's twelve (12) week leave is exhausted, whichever is shorter.

NOTE: An employee may take only one reduced leave during any consecutive twenty-four (24) month period, and a reduced schedule may not exceed 24 consecutive weeks.

- a. For either intermittent or reduced leave, the employee must make a reasonable effort to schedule the leave as not to disrupt unduly the operations of the employer.
- b. The employee may take an intermittent or reduced leave for the birth or adoption of a healthy child only if agreed to by the employer and employee.
- c. For intermittent Leave, the employee will be required to call in whenever absent and provide the City with detailed information about the absence. The City will not treat the absence as Family Medical Leave if the employee has not provided sufficient information that the absence qualifies as a Family Medical Leave.

D. How do you determine when and what type of Notice is required to be given to the employer?

1. An employee must give written notice that he/she is intending to take family leave at least 30 days prior to the commencement of leave for the birth or adoption of a child **(NJFLA)**
2. An employee must give written notice that he/she is intending to take family leave at least 30 days prior to the commencement of leave for a serious health condition of a family member **(BOTH)**
3. An employee must give at least 30 days written notice that he/she is intending to take a family leave for the birth or adoption of a child, and for a serious health condition that is foreseeable based upon planned medical treatment **(FMLA)**
4. In emergent circumstances, however, an employee can give oral notice when written notice is not practical but subsequently must promptly provide the City with written notice **(BOTH)**
5. Notice, either written or oral, must be given to the employee's supervisor or the Personnel Officer.

E. When is a Certification of Health Care Provider required?

1. In accordance with the NJFLA, the City shall require any period of leave to be supported by certification issued by a health care provider with respect to the following:
 - a. When leave is to care for a seriously ill family member the City shall request:
 - i. the date that the serious health condition commenced
 - ii. the probable duration of the condition
 - iii. the medical facts within the provider's knowledge concerning the condition.
 - b. When the leave is for the birth or adoption of the employee's child, the City shall require the certification to state the date of birth or placement of the child.
2. In accordance with the FMLA, the City shall require certification from a health care provider for leave to care for a seriously ill family member or because of the employee's own medical condition. In addition to the information required to be included in the health care provider certification under the NJFLA, the certification shall also include:
 - a. when leave is to care for a family member, a statement that the employee is needed to care for the family member and an estimate of the amount of time that the employee is needed to care for the family member;
 - b. when the leave is due to the serious health condition of the employee, a statement that the employee is unable to perform the essential functions of the employee's job; and
 - c. when leave is sought on an intermittent or reduced schedule for treatment, the dates on which such treatment is expected to be given and the duration of such treatment.
3. The City may require, at its expense, that the employee or seriously ill family member obtain a second opinion from a health care provider designated by the City. If this opinion differs, the City can require, at its expense, a third opinion, which is a final and binding, to be obtained by a health care provider selected by both the City and the employee. **(BOTH)**
4. The City shall also require the employee to sign a form of certification attesting that he/she is taking leave for the birth or adoption of a child or to care for a seriously ill family member. **(NJFLA)**
5. All sections of the Certification of Health Care Provider form must be filled out completely.
6. In the event that an employee fails to provide any of the certifications required under this section, the City reserves the right to declare that any medical leave constitutes a family leave.

F. Does Health Benefits coverage continue?

1. Health benefits will be maintained while on approved Family Medical Leave. However, if the employee fails to return from leave, the cost of benefits must be repaid, unless the failure is due to circumstances beyond the employee's control. **(FMLA)**
2. The employer must continue to provide other benefits (medical leave, sick leave, life insurance, and pensions) to employees absent on leave on the same terms as (stated in CITY Policy) regarding benefits for employees on unpaid leave. **(NJFLA)**

G. Does Vacation/Sick/Holiday time accrue while on an unpaid Family Medical Leave?

1. The employee shall not accrue any vacation time, sick time or holidays during any period of unpaid Family Medical leave unless stated otherwise in the employee's respective collective bargaining agreement. Accordingly, an employees time will be pro-rated upon the employees return to work.

H. What are Grounds for Denial of Leave?

- 1 Under certain circumstances, the city may deny family leave to employees who are among the highest paid 5% of its employees, or are one of the seven highest paid employees, which ever is greater, if granting such leave would lead to substantial and grievous economic injury to the City. **(NJFLA)**
- 2 Leave may be denied if the employee refuses to sign a certification or provides a false certification or health care provider information does not support said request. **(BOTH)**

I. Can an employee be employed during leave?

- 1 An employee is prohibited from working full-time or part-time for any person whom the employee did not work immediately prior to commencement of the leave. **(NJFLA)**.

J. How does an employee return to work for his/her illness?

1. An employee who has been out of work for his/her own illness must complete the return to work request form and must provide medical documentation that they are able to return to work to the Office of Risk Management .

K. DEFINITIONS:

- 1 **Serious Health Condition NJFLA:** an illness, injury, impairment or physical or mental condition which requires:
 - i. inpatient care in a hospital, hospice, placement in or transfer from nursing facilities or residential medical care facility;
 - ii. continuing medical treatment or continuing supervision by a health care provider
- 2 **Serious Health Condition FMLA:** an illness, injury, impairment, or physical or mental condition that involves:
 - i. inpatient care in a hospital, placement in or transfer from nursing facilities, hospice or residential medical care facility;
 - ii. continuing treatment by a health care provider.
- 3 **Family Member (NJFLA):** child, parent or spouse
- 4 **Child(FMLA):** a biological, adopted, or foster child, stepchild, legal ward, or child of a parent who is
 - i. under 18 years of age
 - ii. 18 years of age or older but incapable of self-care because of mental or physical impairment.

- 5 **Son or Daughter (FMLA):** a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is:
- i. under 18 years of age
 - ii. 18 years of age or older but incapable of self-care because of mental or physical impairment
- 6 **Parent (NJFLA):** is the biological parent of the employee, adoptive parent, foster parent, step-parent, parent-in-law, or legal guardian, having a “parent-child” relationship with the child, or having sole or joint legal or physical custody, care guardianship or visitation with a child.
- 7 **Parent (FMLA):** a biological parent of the employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.
- 8 **Spouse (FMLA):** husband or wife
- 9 **Spouse NJFLA):** a person to whom an employee is lawfully married as defined by NJ law.
- 10 **Next of Kin (FMLA):** nearest blood relative of the injured veteran.
- 11 **Reduced Leave Schedule (NJFLA):** leave scheduled for fewer than an employee’s usual number of hours worked per workweek but not for fewer than an employees usual number of hours worked per day, unless agreed to by the employee and the employer, and that is scheduled for not more than 24 consecutive weeks and which can be utilized only once during a 24 month period.
- 12 **Reduced Leave Schedule (FMLA):** a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
- 13 **Intermittent Leave (NJFLA):** a non-consecutive leave comprised of intervals, each of which is at least one but less than 12 workweeks within a consecutive 12 month period.
- 14 **Intermittent Leave (FMLA):** leave taken in separate blocks of time due to a single qualifying event.