



# MATERNITY LEAVE POLICY

PM-66-02

## Section: 66-00, EMPLOYEE STATUS

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### **I. PURPOSE & SCOPE**

To comply with the MATERNITY LEAVE ACT, T.C.A., Sec. 4-21-408, as amended. The policy covers all regular, full-time employees of City of Memphis Government, who have been employed by City Government for at least twelve (12) consecutive months.

It is the policy of City of Memphis to ensure that all employees of City Government are given equitable treatment within the guidelines of the City's MATERNITY LEAVE POLICY, the TENNESSEE MATERNITY LEAVE ACT. In 2005, the TENNESSEE MATERNITY LEAVE ACT was amended and requires any employer to provide maternity leave to a female employee who is adopting a child, as well as grants leave rights to male employees.

### **II. POLICY**

**A.** Full-time employees who have been employed by the City for at least twelve (12) consecutive months as full-time employees are eligible to request maternity leave. Those eligible shall receive leave under the following conditions:

1. May be absent from their employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth, and nursing an infant, where applicable, or related physician-certified medical conditions. With regard to adoption, the four-month period shall begin at the time an employee receives custody of the child.
2. The eligible employee who gives at least three (3) months' advance notice to the employee's Division Director or designee of the employee's anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.
3. An employee who is prevented from giving three (3) months advance notice because of a medical emergency which necessitates that maternity leave begin earlier than



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originally anticipated shall not forfeit the employee's rights and benefits under the Act solely because of the employee's failure to give three (3) months advance notice.

- B.** Pursuant to the TENNESSEE MATERNITY LEAVE ACT, leave may be with or without pay at the discretion of the employer. Such leave shall not affect the employee's right to earn leave and/or other benefits in accordance with applicable City policy that governs the accumulation of such leave and/or benefits; and any other benefits or rights of the employee's employment incident to the employee's employment position; provided, however, that the City need not provide for the cost of any benefits, plans, or programs during the period of such leave unless the City so provides for all employees on leaves of absence.

If an employee's job position is so unique that the City cannot, after reasonable efforts, fill that position temporarily, then the City shall not be liable under the Act for failure to reinstate the employee at the end of her maternity leave period.

The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave.

Whenever the City shall determine that the employee will not be reinstated at the end of the leave because the employee's position cannot be filled temporarily or because the employee has used the leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee in accordance with PM-38-01, DISCIPLINE POLICY AND PROCEDURES, Section: Termination.

Nothing contained within the provisions of this section shall be construed to affect any bargaining agreement or City policy that



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provides for greater or additional benefits than those required under this section;

### III. PROCEDURES

#### A. LEAVE OF ABSENCE WITH PAY

When the eligible employee requests time off due to or related to an adoption, pregnancy, childbirth, nursing an infant, or related physician-certified medical conditions, the employee shall be allowed to use unused accrued sick leave, vacation, bonus days, or any other paid time off due the employee as follows:

- Unused accrued sick leave may only be used for the portion of time the employee is certified by the primary physician as being disabled related to an adoption, pregnancy, childbirth, or related physician-certified medical conditions.

#### B. LEAVE OF ABSENCE WITHOUT PAY

All unused accrued vacation, bonus days, and any other paid time off due the employee is required to be exhausted before the employee is eligible to request maternity leave of absence without pay.

Pursuant to City policy, employees, who are on leave of absence without pay for more than thirty (30) calendar days, shall have their current date of employment adjusted to exclude the total period of time the employee was on leave of absence without pay pursuant to PM-66-01, SENIORITY RIGHTS/ADJUSTED DATE OF EMPLOYMENT. Leave benefits shall not accrue while an employee is absent without pay. Sick leave benefits shall not accrue while an employee is absent on sick leave for fifteen (15) consecutive work days or longer or during leave of absence without pay. Previously earned time toward the three (3) month-period for earning a bonus day shall be frozen on the employee's last day on payroll. In the year following the employee's leave of absence without pay, the employee's vacation shall be prorated in accordance with PM-46-02, **VACATION LEAVE**. Accrual of all leave benefits shall resume on the first full day the employee is at work after maternity leave.



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Employees who are on a leave of absence without pay and who wish to continue their health benefit coverage or their life insurance coverage, must contact the City's Benefits Service Center, Division of Human Resources, to make necessary financial arrangements according to the guidelines and provisions of the appropriate City of Memphis insurance program. These arrangements must be completed before the end of the first pay period the employee is on leave of absence without pay. If insurance premiums are not timely received by the Benefits Officer, insurance coverage will be canceled.

### **C. RETURN TO WORK FROM LEAVE**

When an employee returns to work from maternity leave which included leave of absence without pay for more than thirty (30) calendar days, it is the responsibility of the employee's Division to notify the Deputy Director of Human Resources, in writing, immediately upon the employee's, return to work. The Deputy Director of Human Resources shall calculate the adjusted date of employment and notify the employee, in writing, of the adjusted date of employment. In addition, the Deputy Director shall update the employee's official personnel file held in Data Management, Division of Human Resources; notify the employee's Division Director to update the employee's Division records; and notify Compensation Service Center, Division of Human Resources, which is responsible for entering the pertinent information into the City of Memphis Payroll/Personnel System. The adjusted date of employment shall then govern seniority and the accumulation of vacation and sick leave time.

When an employee returns to work from maternity leave of absence no later than the four (4) month period of time allotted by the TENNESSEE MATERNITY LEAVE ACT and is restored to the position the employee held at the time of maternity leave or to a similar position and meets all other guidelines as defined in this policy, the employee shall be compensated at the employee's previous rate of pay, plus any normal or special adjustments that occurred during the period of maternity leave.



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In accordance with the TENNESSEE MATERNITY LEAVE ACT, the City is under no obligation to hold an employee's position held at the time of maternity leave or to return her to City employment if the employee requests to return to the employee's City employment later than the 4-month period of time allotted by the TENNESSEE MATERNITY LEAVE ACT. If the employee requests additional leave after the expiration of the 4-month period, any such leave must be in accordance with other City policies providing for leaves of absence. Leave under the TENNESSEE MATERNITY LEAVE ACT provisions can not be extended.

All leave taken for or related to an adoption, pregnancy, childbirth, nursing an infant, or related-physician certified medical conditions that includes sick leave, vacation, bonus leave, any other paid time off due the employee, and maternity leave of absence without pay shall count toward the 4-month period of time allotted by the TENNESSEE MATERNITY LEAVE ACT and toward the 12 work weeks of the FAMILY AND MEDICAL LEAVE ACT. All matters of pension are governed by the rules and regulation of the City of Memphis Retirement System.

### REFERENCE CORRESPONDING POLICIES

- PM-46-02, VACATION LEAVE
- PM-46-03, SICK LEAVE/BONUS DAYS
- PM-66-06, FAMILY AND MEDICAL LEAVE ACT POLICY AUTHORITY
- TENNESSEE MATERNITY LEAVE ACT., T.C.A., SEC. 4-21-408
- EEOC NOTICE NO. N-915-058