

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Resolution No. 300 Revising Personnel Policies of the Employee Handbook
DEPARTMENT:	Human Resources; City Attorney's Office
PRESENTED BY:	Richard Moore, Senior Human Resources Analyst, Marci Wright, Human Resources Director, Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT:

Nine changes to the personnel policies are proposed in Resolution No. 300:

1. Changing the sick leave policy (Section 6.04) to require all employees to use sick leave for any portion of sick leave absences.
2. Deleting redundant language in the family leave policy (Subsection 6.06 (B.)) regarding the 12 month limit of time used to care for a child after birth or adoption during Family Medical Leave.
3. Adding language to section to the family leave policy (Subsection 6.06 (D)(4)(b)) to ensure that the City policy is in compliance when defining absences plus treatment as a qualifying event under the Family Medical Leave Act.
4. Adding language to section the family leave policy (Subsection 6.06 (H)) to ensure that the City policy is in compliance with the Federal Family Medical Leave Act regulations for determining when medical certification is required for a qualifying event.
5. Changing language in the family leave policy (Subsection 6.06(H)) to ensure that the City is receiving the appropriate medical certification when an employee has used qualifying Family Medical Leave.
6. Adding a new Section 6.16 to ensure that City policy is in compliance with recent changes to the Family Medical Leave Act to include "qualifying exigency" leave to eligible employees with covered family members in the National Guard, Reserves and Regular Armed Forces.
7. Adding language to the drug-free workplace policy (Subsection 8.05(B)(5)) to clarify when drug and alcohol testing is required after a job related accident.
8. Amending the smoking policy (Section 8.09) by adding a 25 foot rule to comply with state law and adding a nonsmoking city hall campus policy. A new definition for "City Hall Campus" is added as a new subsection in Section 3. to designate the new City Hall and the surrounding grounds for the non-smoking policy in Section 8.09.

9. Adding a new subsection to 8.05(C) to ensure City policy is in compliance with Washington Department of Transportation standards for drug and alcohol screening and other related requirements for employees with Commercial Drivers Licenses

FINANCIAL IMPACT: Most amendments are updates and clarifications to reflect current practice in compliance with law. There is no financial impact from the city hall campus no smoking policy. Requiring partial day sick leave use by exempt employees will result in a very small cost savings over time since sick leave is only convertible to cash upon retirement and then only 10% of accrued sick leave is paid out.

RECOMMENDATION:

Staff recommends that Council adopt Resolution No. 300 amending personnel policies of the Employee Handbook.

Approved By:

City Manager 

City Attorney 

DISCUSSION:

The Employee Handbook was adopted in 1999. In our ongoing effort to ensure that the City's personnel policies are a viable and effective, we periodically update the policies to keep them in line with our growing City and with changes in State and Federal law. With this most recent review of the Personnel Policies, staff identified the following nine changes and updates.

1. Accounting for Sick Leave

Section 6.04 defines the Sick Leave Policy for employees working at the City of Shoreline. This section explains that sick leave is provided as an "insurance policy" and may be used in the event that an employee or immediate family member experiences an illness or disability that requires an employee to be absent from work. Staff is recommending language be added to require all employees to use sick leave for any sick leave absences. Currently, exempt employees do not use leave for partial day absences for illness or treatment. This change would require that exempt employees who had a partial day sick leave related absence, and did not complete 40 hours of work in the week, use available sick leave, or other leave if sick leave is exhausted. However, to satisfy the salary basis test required for exempt status under Washington wage and hours law, exempt employees would still not have a pay reduction for partial days if all paid leave is exhausted.

2. Deleting Redundant Language in Family Medical Leave

Section 6.06 (B) defines the reasons for taking Family Medical Leave. A review of the personnel policies revealed that specific language regarding the 12 month limitation to use the available 12 weeks of FMLA for the birth or adoption of a child was repeated. Staff is recommending this repetition be removed. This change will help clarify the leave available and avoid confusion as to the intent of this section.

3. Compliance with Family Medical Leave Act definition of "absences plus treatment"

Section 6.06 (D)(4)(b.) establishes the definition of a Serious Health Condition and determines when a series of absences plus treatment qualify as Family Medical Leave. Staff is recommending adding clarifying language that receiving treatment from a health care provider for the same condition more than once within 30 days is a qualifying event. This change will better align policy with the applicable law and provide clarification for employees and managers.

4. Compliance with Family Medical Leave Act when determining when Medical Certification is Required

Section 6.06 (H) establishes that medical certifications are required for Family Medical Leave related events. Staff is recommending that the language be clarified to require documentation for qualifying events that extend beyond three consecutive days. This change will align the policy with the current Family Medical Leave related laws and reduce confusion in regards to the requirements of this section.

5. Compliance with The Family Medical Leave Act and Military Family Leave Entitlements

Staff is proposing a new section entitled "Exigency Leave" to ensure the City is in compliance with the Family Medical Leave Act and Military Family Leave. This new section establishes 12 weeks of Family Medical Leave for an eligible staff member with an immediate family member who is on active duty or has been notified of an impending call or order to active duty. Staff recommends this new section be added to remain consistent with applicable federal law and avoid potential liability issues.

6. Post-Accident Drug and Alcohol Testing

Section 8.05 (B)(5) establishes a Drug-Free Workplace and determines when an employee may be required to submit to a blood or alcohol test. Staff is recommending that clarifying language be added to require drug and alcohol testing prior to an offer being made for a safety-sensitive position and after a job related accident when reasonable cause exists or if required by the Department of Transportation. This change will avoid inaccurate testing or confusion as to the intent of this section.

7. Compliance with WSDOT Drug and Alcohol Policies and Standards for Employees with Commercial Drivers Licenses

Staff is proposing a new subsection to section 8.05 to ensure the City is in compliance with Washington State Department of Transportation requirements. During a recent review of our Drug and Alcohol policies with the Association of Washington Cities it was determined that the current policies are vague and do not set clear specific requirements regarding employees with Commercial Drivers Licenses. Language clarifying these additional requirements is recommended in order to clarify the responsibilities and avoid liability or safety issues.

8. 25-foot Non-Smoking Rule and Smoke Free Campus

Section 8.09 established a no smoking policy for the City and defines where this policy would apply. Staff is recommending that the policy be revised to include the City Hall Campus and also address changes to state law. RCW 70.160.075 made it illegal to smoke within 25 feet from entrances, exits, windows that open and ventilation intakes that serve areas where smoking is prohibited. The City has taken a more assertive step by restricting smoking completely on the City Hall Campus. Staff is recommending language be added to define the parameters of the City Hall Campus in the definitions section of the Handbook. This change will clarify the intent of the policy while also making the City compliant with current State law and provide a clear definition of our grounds to provide clarity for employees and the public.

RECOMMENDATION

Staff recommends that Council adopt Resolution No. 300 amending personnel policies of the Employee Handbook.

ATTACHMENTS

Resolution No. 300

RESOLUTION NO. 300

A RESOLUTION OF THE CITY COUNCIL, CITY OF SHORELINE, WASHINGTON, AMENDING THE EMPLOYEE HANDBOOK POLICIES REGARDING SICK LEAVE, FAMILY MEDICAL LEAVE, SMOKING AND DRUG AND ALCOHOL SCREENING

WHEREAS, periodic review and updates to the Shoreline Employee Handbook are needed to keep policies in compliance with State and Federal Law; now therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

1. The Shoreline Employee Handbook sick leave policy is amended as follows:

6.04 Sick Leave

Policy: The purpose of sick leave is to provide an "insurance policy" of a bank of paid leave to be used in the event that an employee or immediate family member experiences an illness or disability that requires an employee to be absent from work. Employees who are ill or disabled are expected to use sick leave to recover and to not report to work when they could expose co-workers to illness. All regular employees shall use leave to account for any sick leave related absence whether full or partial day. Sick leave is earned and to be used under the following conditions:

[Subsections A-J unchanged]

2. The Shoreline Employee Handbook relating to family medical leave is amended as follows:

6.06 B. Reasons for Taking Leave: Family leave is provided for any of the following reasons:

1. To care for an employee's child after birth or placement for adoption or foster care. Leave to care for a child after birth or placement for adoption or foster care must be concluded within 12 months of the birth or placement.
2. To care for an employee's spouse, child, or parent who has a serious health condition.
3. To care for a spouse, son, daughter, parent or next of kin who has a serious health condition as a result of military service ("military family care").
4. If a serious health condition makes an employee unable to perform the functions of his or her job.

~~Leave to care for a child after birth or placement for adoption or foster care must be concluded within 12 months of the birth or placement.~~

6.06 D. Definitions. For the purposes of this policy, the following definitions apply:

...

(4) Serious Health Condition: An injury, illness, impairment or physical or mental condition that involves:

...

b) absences plus treatment: any period of incapacity of more than three consecutive calendar days including any subsequent treatment or period of incapacity relating to the same condition that also involves 1) treatment 2 or more times by a health care provider within 30 days, by a nurse or physician's assistant under direct supervision of a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider; or 2) treatment by a health care provider on at least 1 occasion which results in a regimen of continuing treatment under the supervision of a health care provider;

...

H. Medical Certification. The City requires the provision of a medical certification to support a request for leave because of a serious health condition (the employee's, or that of a child, spouse or parent) qualifying event whenever the leave is expected to extend beyond five three consecutive working days or will involve intermittent or part-time leave. The City may require second or third opinions, at its option, at City expense.

The City may require an employee on family leave due to the employee's serious health condition or due to the birth of a child to provide a medical certification of fitness for duty prior to return to work after a medical leave, that extends beyond 10 consecutive working days, dependant on the circumstance as it relates to the employees duties.

6.16 Exigency Leave

An eligible employee may take up to a total of 12 workweeks of unpaid leave during the normal 12-month period for FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Qualifying exigency leave is available to a

family member of a military member in the National Guard, Reserves and the Regular Armed Forces. Qualifying exigency leave may be taken intermittently or on a reduced leave schedule.

3. The Shoreline Employee Handbook relating to a drug-free workplace is amended as follows:

8.05 Drug-Free Workplace

...

B. The unlawful manufacture, distribution, dispensation, possession, sale, or use of a controlled substance, alcohol or other intoxicant in the workplace or while engaged in City business on or off the premises or in a City vehicle is strictly prohibited. Such conduct is also prohibited to the extent that in the opinion of the City, it impairs an employee's ability to perform on the job or threatens the reputation or integrity of the City. Therefore:

...

5. Employees may be required to submit to alcohol, drug or controlled substance testing when: an employee's work performance causes reasonable suspicion that the employee is impaired due to current intoxication, drug or controlled substance use; testing is required prior to appointment to a position; as a result of a job related accident when reasonable cause exists or if required by the Department of Transportation; or in cases where employment has been conditioned, in a return to work agreement, upon remaining alcohol, drug or controlled substance free following treatment. Refusal to submit to testing when requested may result in immediate disciplinary action up to and including termination. Testing information shall be confidential unless used in an employer action with regard to the employee.

...

C. In addition to sections A and B candidates applying for positions which require a valid Commercial Drivers License (CDL) will be subject to passing a pre-employment drug screening. All City employees in positions requiring a CDL must comply with the City's Drug and Alcohol Policy and Procedures Manual.

4. The Shoreline Employee Handbook relating to the City smoking policy is amended as follows:

3. City Hall Campus

The property including City Hall, the City Parking Garage and all adjacent City owned grounds not subject to lease.

8.09 Smoking Policy

In order to maintain a safe and comfortable working environment and to ensure compliance with applicable laws, smoking is prohibited on the City Hall Campus, in City offices and work placespaces, in City owned vehicles, is prohibited. ~~Employees should avoid smoking near and within 25 feet of all building entrances, and any open windows that open and ventilation intakes.~~ Violation of this policy may be grounds for disciplinary action, up to and including termination.

ADOPTED BY THE CITY COUNCIL ON February 8, 2010.

Keith McGlashan, Mayor

ATTEST:

Scott Passey, City Clerk