



Pregnancy Disability Leave	Administrative Regulation No. 2.04
Effective Date: 4/6/2021 Revised/Superseded:	

DocuSigned by:

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Approved by City Manager: _____

1. **Overview of Purpose and Scope of this Regulation.**

- 1.1. The City provides employees who are disabled by pregnancy, childbirth, or related medical condition with leave or accommodation under the terms of the Pregnancy Disability Leave law (“PDL”).
- 1.2. A need for accommodation or leave due to prenatal care or post-natal care, severe morning sickness, doctor-ordered bed rest, childbirth, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, lactation conditions such as mastitis, loss or end of pregnancy, and recovery from childbirth are covered by PDL.
- 1.3. There is no minimum hours worked requirement for an employee to be eligible for PDL.
- 1.4. An employee’s 12 weeks of family leave under the Family Medical Leave Act (FMLA) runs concurrently with PDL leave, but does not run concurrently with California Family Rights Act (CFRA) leave.
- 1.5. This Regulation is an implementation of the City Manager’s authority derived from the City of San Bruno Municipal Code, resolutions of the City Council, and other minute order direction from the City Council. This policy will supercede any policies or MOU provisions that are inconsistent with state or federal law.

2. **Definitions.**

- 2.1. The words, terms and phrases, when used in this Regulation, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

3. **Amount of Leave and Accommodations Available.**

- 3.1. Employees who have provided appropriate medical certification of a pregnancy-related disability are normally granted unpaid leave for the period of the disability, up to a maximum of four months. For a full-time employee, “four months” means 17 1/3 weeks (this period is prorated for employees who work less than full time.) PDL does not need to be taken in one continuous period of time, but can be taken on an as-needed basis. In other words, leave may be taken intermittently or on a reduced work

schedule when determined medically advisable by the employee's health care provider. The smallest increment of time that can be used for such leave is 1 hour for leave without pay or 0.25 of an hour intermittent FMLA leave. The City may re-assign the employee to an alternative position or alter the existing job to accommodate intermittent leave or a reduced work schedule. Where the City makes such re-assignment to better accommodate the intermittent leave or reduced schedule, the employee will receive the same pay and benefits in the alternative position.

- 3.2.** The duration of a pregnancy disability leave will be determined by written documentation from a physician. Employees disabled by pregnancy may take up to four months. Any additional leave needed by an employee beyond the four months provided under Pregnancy Disability Leave will be provided in accordance with state and federal laws.
- 3.3.** In addition to other possible forms of reasonable accommodation, a pregnant employee may transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated. Where transfers are made based on the employee's health needs, the employee will receive the pay that accompanies the alternative position. Such reasonable accommodation will not involve the City creating additional employment that would otherwise not be created, discharging other employees, transferring another employee with more seniority, violating a collective bargaining agreement, or promoting any employee (including the pregnant employee) to a position for which the employee is not qualified.

4. Procedure for Requesting Leave and Certification Requirements.

4.1. Request

- 4.1.1.** Employees should make requests for pregnancy disability leave or accommodation to the Human Resources Director at least thirty (30) days in advance of foreseeable events and as soon as possible for unforeseeable events.

4.2. Certification

- 4.2.1.** A request for pregnancy disability leave or accommodation must be supported by a written certification from the attending physician stating:
 - a. The date on which the employee became disabled due to pregnancy, childbirth or related medical condition (or the date

on which the need for a job transfer became medically advisable);

- b. The probable duration of the period or periods of disability or the need for transfer; and
- c. A statement that, due to the disability, the employee is unable to perform one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons, or that the transfer is medically advisable.
- d. Re-certification may be required if the employee requests an extension beyond the original certification.
- e. Any changes in this information contained in the health care provider's statement should be promptly reported to Human Resources.

5. Compensation During Leave.

5.1. Pregnancy disability leaves are without pay. An employee may use accrued leave. However, other wage replacement sources (such as Disability Insurance) may be available. If the employee is being provided disability payments from a third party such as EDD, while on PDL, the employee may use accrued sick time or other paid leave benefits to supplement the third party benefit. If third party benefits are being paid, accrued paid leave (i.e., sick or vacation) and EDD payments combined may not exceed 100% of pay. Employees who are eligible for PDL will be designated to be on Family Medical Leave upon the commencement of PDL.

6. Benefits During Leave.

6.1. An employee on pregnancy disability leave will continue to receive any group health insurance coverage that was provided before leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. Continuation of benefits during PDL is in addition to time that the City would be required to maintain benefits under CFRA. The City will recover the employee cost of the premium paid under certain circumstances if the employee fails to return to duty after the end of PDL, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or because of circumstances beyond the employee's control. Employees who exhaust their paid leave benefits while on protected leave and elect to continue to receive group health insurance coverage through the City will be invoiced for their benefits premium.

7. Employee Status During Leave.

7.1. The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits accrual will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

8. Reinstatement.

8.1. So that an employee's return to work can be properly scheduled, an employee on pregnancy disability leave is requested to provide the Human Resources Director with at least two weeks' advance notice of the date they intend to return to work.

8.2. When a pregnancy disability leave ends, an employee will be reinstated to their original position or to a comparable position with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee on pregnancy leave would have been laid off had they not gone on leave, or if the employee's position has been eliminated during the leave and there is no comparable position available, then the employee would not be entitled to reinstatement. An employee's use of pregnancy leave will not result in the loss of any employment benefit that the employee earned or was entitled to before the leave.

8.3. If an employee cannot return to work as scheduled after leave under this policy, or if an employee exceeds the leave entitlement, the employee may be eligible under the City's other applicable leave of absence, accommodation and attendance policies.