

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: October 26, 2017

To: The City Council

From: Ralph M. Terrazas, Fire Chief
Fire Department

R. M. T.

Richard H. Llewellyn, Jr.

Richard H. Llewellyn, Jr., Interim City Administrative Officer

Subject: **MATERNITY LEAVE FOR FEMALE FIREFIGHTERS (C.F. 17-0690)**

RECOMMENDATION

It is recommended that the Office of the City Administrative Officer (CAO) prepare a report for consideration by the Executive Employee Relations Committee regarding the feasibility of implementing a pilot program to improve maternity leave policies for female firefighters through the meet and confer process with the United Firefighters of Los Angeles City (UFLAC) and the Los Angeles Fire Department Chief Officers Association (LAFD COA).

SUMMARY

On June 16, 2017, a Motion (Martinez-O'Farrell) was introduced instructing the Los Angeles Fire Department (LAFD) and the CAO to explore implementation of a pilot program to improve maternity leave policies for female firefighters. The LAFD and CAO were specifically instructed to report on several issues. The response to each of these issues is provided below.

1. LAFD Process for Handling Maternity Leave Requests

The City's Family and Medical Leave policies are in compliance with the Pregnancy Disability Leave provisions of the California Fair Employment and Housing Act (FEHA), the California Family Rights Act (CFRA), and the federal Family and Medical Leave Act of 1993 (FMLA). Family and Medical Leave benefits, which include time off for pregnancy, childbirth or related medical condition, and bonding, are set forth in the employees' respective Memoranda of Understanding (MOU). In accordance with the MOU for sworn LAFD personnel, a pregnant employee may be eligible for up to four months for childbirth disability and up to an additional four months for the purpose of bonding.

The procedure for requesting Family Leave is contained in the Fire Department Manual of Operations Section 3/3-25.60. For a pregnancy, the employee submits a request through the chain of command, with a physician's certification stating the employee is unable to physically perform the duties of her position due to pregnancy, childbirth or related medical condition. Following approval by the chain of command, the request is routed to the Administrative Services Bureau, Personnel Services Section (PSS). Two PSS staff members are assigned to review requests for Family and Medical Leave and determine eligibility. For example, employees are eligible for pregnancy disability leave on the first day of employment with the City, and are eligible for up to four months of leave if they are disabled due to pregnancy. Employees are eligible for bonding leave if they have been with the City for one year and have worked a minimum of 1,250 hours in the preceding year, as set forth in the MOU. Employees may use accrued sick leave, vacation time, accrued banked overtime and unpaid leave for childbirth disability and for bonding.

2. How LAFD Ensures Compliance with Legislative Requirements for Maternity Leave

Staff of the LAFD attend training conducted by the Personnel Department and/or the CAO and follow the regularly-updated guidelines and policies distributed by these entities – including MOUs and Employee Relations Bulletins – to ensure that all legislative requirements for maternity leave are met.

3. Effect of Maternity Leave on Retirement Seniority and Department Assignment

If an employee is off on compensated time (sick leave, vacation, compensated time off), the employee receives retirement credit because a pension contribution is taken from the employee's pay by the Los Angeles Fire and Police Pension Plan (LAFPP). Retirement credit does not accrue if the employee is off on unpaid leave since no pension contribution is taken.

Within the LAFD, seniority in rank is the determining factor for sworn employees who voluntarily request assignments from one fire station to another. Seniority in rank accrues for paid leave. Civil Service Rule 7.8(b) provides that employees who are on unpaid leave for eight days or more, for any reason other than active military leave, do not receive seniority credit during the period of unpaid absence.

4. Seniority as Applied to Military Leave and Maternity Leave

Maternity leave is governed under Pregnancy Disability Leave (Fair Employment and Housing Act), Bonding Leave (California Family Rights Act) and the Family and Medical Leave Act (FMLA). In accordance with these laws, an employer is

not required to provide paid leave. However, employees may use paid time (accrued sick leave, vacation, banked compensated time off). Civil Service Rule 7.8(b) provides that employees who are on unpaid leave for eight days or more, for any reason other than active military leave, do not receive seniority credit during the period of unpaid absence.

Military leave is governed under the Military and Veterans Code of the State of California and the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994. USERRA covers the following types of military leaves: Active Duty (AD); Active Duty for Training (ADT); Inactive Duty for Training (IADT); Initial Active Duty for Training (IAT); and, the period a person is absent from work for the purposes of examination to determine fitness of the person to perform any such duty.

The State mandates salary compensation for the first 30 calendar days in any one fiscal year for any public employee who is on military leave for the purpose of active military training, encampment, naval cruises, and special exercises or like activity. Salary compensation for military leave is only available to public employees who have completed one year of either public agency service, recognized military service, or a combination of both.

In compliance with USERRA, the City provides qualifying employees leave with pay for up to 30 days per calendar year for active military service. An employee receives seniority for his/her military leave time in accordance with Civil Service Rule 7.8(c).

5. Guarantee of Returning to Previous Assignment Upon Return From Maternity Leave

LAFD policy allows a sworn employee off on medical leave to return to his or her prior assignment within 12 months.

6. Option to Buy Back Unpaid Maternity Leave Time

There is no provision for employees who are members of the LAFPP to buy back unpaid time off for retirement service credit due to maternity leave. Any change in retirement benefits would be subject to the meet and confer process with the respective labor organizations. Because the LAFPP covers sworn employees of both the Fire and Police Departments, enabling buy back of unpaid maternity leave time would have to be negotiated with the four labor organizations representing the sworn Fire and Police employees. Further, a change in benefits would require a Charter change or an amendment to the Los Angeles Administrative Code depending on the applicable pension tier.

7. Feasibility of Implementing Paid Maternity Leave on Trial Basis in LAFD

As mentioned above, maternity leave provisions are governed by Federal and State legislation and are codified in various City documents, including MOUs which are negotiated with the various employee organizations. Any additional benefits would be subject to the meet and confer process prior to amending the MOUs. Therefore, the CAO, as the City's representative in such negotiations, would be required to obtain bargaining instructions from the EERC prior to starting negotiations with UFLAC and the LAFD COA over enhanced maternity leave benefits.

FISCAL IMPACT

This report is for informational purposes only. There is no fiscal impact to the General Fund at this time.

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