

	Leave for Adoption, Pregnancy, Childbirth, and Infant Nursing Policy	
	Section No: 4.02	
	Category: Benefits and Leave Policies	
	Resolution Number: 257-2026	
	Effective Date: September 1, 2026	
	<i>Supersedes: former Section 12, Resolution 29-2024 – February 5, 2024</i>	
	Next Review Date: September 1, 2028	
	Responsible Office: Human Resources	
Policy Applies to:	☒ All City employees (Full-time, Part-time, LSEs, temps, etc.) ☐ All City and School Employees	☐ Full-Time employees only ☐ Other: _____

Relevant Definitions

N/A

Policy

Leave for adoption, pregnancy, childbirth, and infant nursing is provided pursuant to the Tennessee Maternity Leave Act (Tennessee Code Annotated § 4-21-408) as amended and set forth in it's entirety herein below. Adoption, pregnancy, childbirth and infant nursing may be events eligible for leave pursuant to federal law such as Family Medical Leave Act (FMLA) and American with Disabilities Act (ADA) which may also be applicable.

T.C.A. § 4-21-408

(a)

Employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth, and nursing an infant, where applicable, referred to as "leave" in this section. With regard to adoption, the four-month period begins at the time an employee receives custody of the child.

(b)

(1) Employees who give at least three (3) months' advance notice to their employer of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, must be restored to their previous or similar positions with the same status, pay, length of service credit, and seniority, wherever applicable, as of the date of their leave.

(2) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that leave begin earlier than originally anticipated do not

forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice.

(3) Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance do not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(c)

(1) Leave may be with or without pay at the discretion of the employer. Such leave does not affect the employees' right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans, or programs for which the employees were eligible at the date of their leave, and other benefits or rights of their employment incident to the employees' employment position; provided, that the employer need not provide for the cost of benefits, plans, or programs during the period of such leave, unless the employer so provides for all employees on leaves of absence.

(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer is not liable under this section for failure to reinstate the employee at the end of the leave period.

(3) 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 is not liable under this section for failure to reinstate the employee at the end of the leave.

(4) Whenever the employer determines 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 notify the employee.

(d) This section does not:

(1) Affect a bargaining agreement or company policy that provides for greater or additional benefits than those required under this section;

(2) Apply to an employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or

(3) Diminish or restrict the rights of teachers to leave pursuant to title 49, chapter 5, part 7, or to return or to be reinstated after leave.

(e) This section must be included in an employee handbook published by the employer after May 27, 2005.

Application:

An employee may use available sick and vacation leave during leave for adoption, pregnancy, childbirth, and infant nursing. Once all available paid leave is exhausted, the balance of the leave will be unpaid. Paid leave usage is subject to the City's applicable leave policies and supervisory approval.

Employees should provide as much notice as applicable and coordinate timing and documentation requirements with Human Resources Department.

Should leave need to be extended due to complications of the pregnancy, a request for an extension along with a licensed medical practitioner's statement indicating the problem and anticipated length of absence should be submitted to the Human Resources Director.

Leave taken for adoption, pregnancy, childbirth, and infant nursing counts as time toward FMLA leave and runs concurrently with FMLA leave.

Employees who are approved for adoption, pregnancy, childbirth, and infant nursing leave must make arrangements with the Human Resources Department to assure premiums are collected for applicable benefits. Employees are responsible for their portion of benefits premiums during any unpaid portion of leave.

The city adheres to the Tennessee Pregnant Workers Fairness Act for accommodations related to pregnant workers. For specific accommodations, employees and applicants should contact the Human Resources Department.

Break Time to Express Breast Milk

Covered employees have the right to take reasonable break time to express breast milk for their nursing child. For one year after the child's birth, employees may take reasonable break time "each time such employee needs to express the milk." The city will not deny a covered employee a needed break to express. The frequency and duration of breaks needed to express milk may vary depending on factors related to the nursing employee and the child. Factors such as the location of the space and the steps reasonably necessary to express breast milk, such as pump setup, may also affect the duration of time an employee will need to express milk and will be considered. Employees should coordinate break scheduling with their supervisor to the extent practicable, while ensuring the nursing needs are met.

Private Space to Express Breast Milk

The city will provide covered employees with “a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.”

The location provided will be functional as a space for expressing breast milk. If the space is not dedicated to the nursing employee’s use, it will be made available when needed by the employee. A space temporarily created or converted into a space for expressing breast milk or made available when needed by the nursing employee is sufficient provided that the space is shielded from view and free from any intrusion from co-workers and the public.

Consequences of Policy Violation

Employees are expected to comply with all provisions of the Adoption, Pregnancy, Childbirth, and Infant Nursing Policy. Failure to do so may result in corrective or disciplinary action, up to and including termination of employment. The level of discipline will depend on the nature, severity, and frequency of the violation.

Related Information or Procedures:

N/A

Other Provisions:

Nothing in this policy should be construed to conflict with or supersede state or federal law, or as interfering with the constitutional rights of employees.

While the city is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the city and its employees. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this statement constitutes ONLY the policy of the city. A finding of a violation of this policy does not mean that the conduct violates state and/or federal laws.

Contacts

The Human Resources Office can address questions regarding this Policy: Phone: (423) 229-9401, HROffice@kingsporttn.gov