

City of Mission Viejo Personnel Policy

Subject: **COMPREHENSIVE ANNUAL LEAVE - FLSA Exempt Employees**

Statement of Intent:

To define the accrual and use of Comprehensive Annual Leave credits for Fair Labor Standards Act (FLSA) exempt employees. This policy is intended to satisfy the requirements set forth under Labor Code Sections 245 – 249 and Labor Code Section 2810.5.

Background:

Employees exempt under the Fair Labor Standards Act (FLSA) are not eligible for overtime pay. However, the responsibilities of such positions frequently require additional work time beyond the normally scheduled workday or workweek. Therefore, the Comprehensive Annual Leave accrual rate for FLSA exempt employees is slightly higher than for FLSA non-exempt employees.

Comprehensive Annual Leave credits provide employees with paid time off for rest and relaxation, personal or family illness, medical appointments, bereavement, and personal business such as leave to attend to domestic violence, sexual assault or stalking needs, including obtaining social and legal services. In most cases, the City expects employees to request time off in advance. In all cases, employees must request the time off from their supervisor. An employee who is frequently absent without approval in advance of the day of absence may create unnecessary scheduling difficulties for the City. Employees may be subject to disciplinary action up to and including dismissal for excessive absenteeism.

Policy:

1. ELIGIBILITY:

- a. The City designates FLSA exempt employees by Resolution through adoption of a classification and compensation plan and by preparation of a job description.
- b. Probationary, promotional probationary, and regular, part-time and full-time FLSA exempt employees accrue Comprehensive Annual Leave credits from the first day of work.
- c. Hourly/Seasonal/Temporary employees do not earn Comprehensive Annual Leave Credits.

2. ACCRUAL RATE: Full-time FLSA exempt employees earn comprehensive annual leave credits in accordance with the following schedule:

Years of Service	Approximate Accruals per Pay Period	Annual Accrual
1 st day of work through year 1	7.385 hours	24 days
Beginning year 2	8.000 hours	26 days
Beginning year 3	8.615 hours	28 days
Beginning year 5	9.231 hours	30 days
Beginning year 7	9.846 hours	32 days
Beginning year 10 and thereafter	10.769 hours	35 days

- a. The employee shall be provided five (5) days of Comprehensive Annual Leave on date of hire. All remaining days will be accrued throughout the 1st year.
 - b. Part-time FLSA exempt employees earn Comprehensive Annual Leave credits on a pro-rated basis based upon their full-time equivalency.
 - c. Full-time FLSA exempt employees who are paid for less than eighty (80) hours in a pay period will earn Comprehensive Annual Leave credits on a pro-rated basis for that pay period.
3. USE BEFORE CREDITS ARE ACCRUED: An employee may not use Comprehensive Annual Leave credits before they are accrued.
4. USE:
- a. Normally, employees are expected to schedule Comprehensive Annual Leave time off in advance with their supervisor.
 - b. In an urgent or emergency situation, an employee may request Comprehensive Annual Leave time off on an unscheduled basis by calling, emailing, or texting their supervisor fifteen (15) minutes prior to the employee's scheduled start time.
 - c. The employee shall not be required to search for or find a replacement worker to cover the hours during which the employee uses Comprehensive Annual Leave as a condition of using Comprehensive Annual Leave.
 - d. Excessive unscheduled time off may result in discipline up to and including termination.
 - e. A supervisor, with the concurrence of the City Manager, or a designee, may require an employee to provide a written explanation from a physician explaining the reason for an unscheduled absence and/or indicating that the

employee is medically cleared to return to work. The employee must be told in advance of this requirement.

5. **MAXIMUM ACCRUAL:** At any given time, an employee may not have a credit balance of more than three times (3x) their annual accrual rate. The City may schedule employees to take Comprehensive Annual Leave time off to satisfy this requirement. The City will, at the option of the employee, buy back unused Comprehensive Annual Leave credits pursuant to the Administrative Regulation in effect at the time of the request.
6. **MINIMUM CHARGE:** The minimum charge to Comprehensive Annual Leave credits is one half (1/2) hour.
7. **HOLIDAYS:** If a holiday falls within a time period when the employee is using Comprehensive Annual Leave credits, the holiday will not be charged to Comprehensive Annual Leave (see Holiday policy).
8. **LEAVE OF ABSENCE WITHOUT PAY:** An employee who is on a Leave of Absence Without Pay will not accrue Comprehensive Annual Leave credits.
 - a. At the discretion of the City Manager, or a designee, all Comprehensive Annual Leave credits must be exhausted before an employee may be placed on a Leave of Absence Without Pay.
 - b. Leave of Absence Without Pay is defined to be:
 - i. Any periods in which the employee is not working; and
 - ii. Any periods in which the employee is not using Comprehensive Annual Leave credits or any other form of paid leave such as Holiday Pay, Floating Holiday Pay, and Compensatory Time Off; **and**
 - iii. Any leave periods not designated as Family Medical Leave, California Family Rights Act Leave, California Pregnancy Disability Leave, Military Leave, or any other lawful leave reasons.
9. **TERMINATION PAY-OFF:** All accrued Comprehensive Annual Leave credits will be paid at the employee's regular rate of pay at the time of termination, death, retirement, or resignation from a full-time equivalent position.
10. **EMPLOYER RECORDKEEPING AND NOTIFICATION:**
 - a. The City shall provide employees with written notice that sets forth the amount of Comprehensive Annual Leave available for use. The notice will be provided either on the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's paycheck.
 - b. The City shall display a poster at each workplace that contains information specified in the Labor Code.

- c. The City shall retain Comprehensive Annual Leave accrual and usage records for a period of at least three (3) years. Such records will document the hours worked and Comprehensive Annual Leave hours accrued and used by each employee. An employee may request access to their records in the same manner regarding itemized wage statements and pay stubs.
- d. The City shall exercise its exclusion from the Initial Hire Notice requirement contained in the Healthy Workplaces, Healthy Families Act of 2014.

11. PROHIBITION AGAINST RETALIATION:

- a. The law prohibits employers from engaging in various types of conduct, including retaliation and discrimination. It prohibits an employer from denying an employee the right to accrued paid leave, discharging, threatening to discharge, demoting, suspending, or discriminating against an employee for:
 - i. Using accrued paid leave
 - ii. Attempting to exercise the right to use accrued paid leave
 - iii. Filing a complaint with the government or alleging a violation of law
 - iv. Cooperating in an investigation or prosecution of an alleged violation of the law; or
 - v. Opposing any policy or practice or act that is prohibited by law.
- b. An employee can file a complaint with the Labor Commissioner if the City retaliates or discriminates against the employee.

Administration:

In accordance with City of Mission Viejo Municipal Code chapter 2.60 “Personnel System”, this Personnel Policy is deemed to have a direct financial impact on the City. City Council approval is required prior to initial implementation and for any subsequent amendments.

- Adopted: Resolution 89-92, September 11, 1989.
- Revised: Resolution 97-39, March 10, 1997.
- Revised: Resolution 04-92, July 6, 2004.
- Revised: Resolution 15-10, March 2, 2015.
- Revised: By City Council on September 24, 2019 – Resolution No. 19-30.
- Revised: By City Council on February 23, 2021 – Resolution No. 21-04.
- Revised: By City Council on June 27, 2023, to be effective July 1, 2023 – Resolution No. 23-28
- Revised: By City Council on December 12, 2023, to be effective December 23, 2023 – Resolution No. 23-46