

City of Mission Viejo Personnel Policy

Subject: **Reproductive Loss Leave**

Statement of Intent:

California's Senate Bill ("S.B.") 848 adds section 12945.6 to the Government Code effective January 1, 2024. S.B. 848 allows qualifying employees to take a leave of absence following a "reproductive loss event" and makes it an unlawful employment practice for a qualified employer to refuse to grant a qualified employee's request to take leave following a reproductive loss event or to retaliate against an employee for requesting such leave. This policy is intended to satisfy the requirements set forth in SB 848.

Policy:

- 1) Policy Eligibility –
 - a) Reproductive Loss Leave eligibility and use as defined in this policy shall apply to all eligible full-time equivalent (FTE) and hourly/seasonal/temporary (HST) employees, regardless of whether the employee is covered by a collective bargaining agreement or not.
 - b) The definition of an FTE employee and an HST employee can be found in the City's Categories of Employment Personnel Policy.
- 2) Use of Unpaid Reproductive Loss Leave –
 - a) Leave under this policy is unpaid. However, the employee may voluntarily choose to use accrued and available comprehensive annual leave, compensatory time off, paid sick leave, or floating holiday hours that is otherwise available to the employee. If an employee does not have any available paid leave options, then the employee may take an unpaid leave of absence.
 - b) An employee is eligible to use reproductive loss leave after at least thirty (30) calendar days of employment.
 - c) Any persons who would have been a parent if the reproductive event had been successful are entitled to this type of leave.
 - d) An eligible employee is entitled to take up to five (5) scheduled work days of reproductive loss leave (which may be taken nonconsecutively) per reproductive loss event, up to a total amount of twenty (20) scheduled work days of reproductive loss leave within a 12-month period.

- e) Reproductive loss leave must be taken within three (3) months of the reproductive loss event.
 - i) However, if, prior to or immediately following a reproductive loss event, an employee is on or chooses to go on Pregnancy Disability Leave (Gov. Code, Section 12945), leave under the California Family Rights Act (Gov. Code, Section 12945.2), or any other leave entitlement under state or federal law, the employee must complete their reproductive loss leave within three (3) months of the end date of the other leave.
- f) The minimum charge to reproductive loss leave is one (1) full work day.
- g) The employee shall not be required to provide the City with any documentation to support the employee's need to utilize reproductive loss leave.

3) Reasons for Leave –

- a) A reproductive loss event means “the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction” (*i.e.*, an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure).
- b) Employees under the following circumstances related to a reproductive loss event are eligible for unpaid reproductive loss leave:
 - A failed adoption event applies to an employee who would have been a parent of the adoptee if the adoption had been completed.
 - A failed surrogacy event applies to an employee who would have been a parent of a child born as a result of the surrogacy.
 - A miscarriage event applies to an employee who experienced a miscarriage, who is the current spouse or domestic partner of a person who experienced a miscarriage, or who would have been a parent of a child born as a result of a pregnancy that resulted in miscarriage.
 - A stillbirth event applies to an employee whose pregnancy resulted in a stillbirth, who is the current spouse or domestic partner of a person whose pregnancy resulted in a stillbirth, or who would have been a parent of a child born as a result of a pregnancy that resulted in stillbirth.
 - An unsuccessful assisted reproduction event applies to an employee who experienced such event, who is the current spouse or domestic partner of a person who experienced such event, or who would have been a parent of a child born as a result of a pregnancy had the assisted reproduction been successful.

4) Confidentiality –

- a) The City shall maintain employee confidentiality relating to requests for and any information received concerning reproductive loss leave, and prohibits supervisors from

disclosing any such information except to those that have a business necessity, such as scheduling availability, payroll reporting, and policy administration.

5) Employer Recordkeeping Obligations –

- a) The Payroll Division shall retain unpaid reproductive loss leave usage records for a period of at least three (3) years. Such records will document the calendar days worked prior to leave beginning as well as the number of work days used by each employee per event.
- b) An employee may request access to their records in the same manner regarding other paid and unpaid leave policies.

6) Prohibition Against Retaliation –

- a) It is an unlawful employment practice for the City of Mission Viejo to refuse to grant a request from an eligible employee to take reproductive loss leave, or for the City of Mission Viejo to retaliate against an eligible employee because the employee exercised the right to reproductive loss leave or gave information or testimony as to reproductive loss leave.
- b) It is also an unlawful employment practice for the City of Mission Viejo to interfere with, restrain, deny the exercise of, or deny the attempt to exercise the rights afforded to employees under the reproductive loss leave law.
- c) 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 not to have a direct financial impact on the City. The City Manager may implement and amend this policy subject to prior City Attorney legal review and approval, and City Council review.

Adopted: By City Council on December 12, 2023 – Effective January 1, 2024; Resolution No. 23-46.