

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: \_\_\_\_\_

Meeting Type: Regular

Meeting Date: Apr 14, 2016

Action Requested By: Human Resources

Agenda Type: Ordinance

Subject Matter:

Ordinance to amend Section 10.8, 10.18 and 19 of Ordinance 04-315 of the Personnel Policies and Procedures Manual.

Exact Wording for the Agenda:

Ordinance to amend Section 10.8 (Family and Medical Leave), Section 10.18 (Bereavement Leave) and Section 19 (Employee Assistance Program) of Ordinance 04-315 (Personnel Policies and Procedures Manual).

Note: if amendment, Please state title and number of the original

Item to be considered for: Introduction

Unanimous Consent Required: No

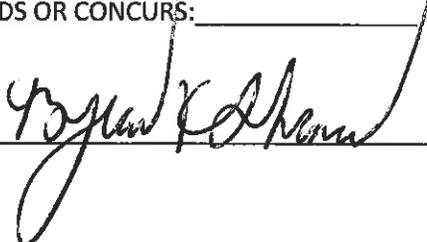
Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Ordinance to amend Section 10.8 (Family and Medical Leave), Section 10.18 (Bereavement Leave) and Section 19 (Employee Assistance Program) of Ordinance 04-315 to modify the (Personnel Policies and Procedures Manual).

Associated Cost: \_\_\_\_\_

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: \_\_\_\_\_

Department Head: 

Date: 4/11/16

**ORDINANCE NO. 16-**

**BE IT ORDAINED** by the City Council of the City of Huntsville, Alabama, that Sections 10.8, 10.18 and 19 of Ordinance No. 04-315 (Personnel Policies and Procedures Manual), as adopted and approved on December 16, 2004, as amended, is hereby further amended as follows:

**10.8 FAMILY AND MEDICAL LEAVE (ORD. 08-776) (ORD. 10-922)**

(A) Definitions

For purposes of family and medical leave, the following terms shall have the respective meanings ascribed in this section:

(1) Days mean calendar days;

(2) Eligible employee means an employee, as defined by Section 10.8(A)(3), who has completed twelve (12) months of employment, and has been employed for at least 1,250 hours of service during the twelve (12) month period immediately preceding the commencement of leave;

(3) Employee means a person employed in a full-time position or a part-time position wherein the person is employed to work more than twenty-four (24) hours per week;

(4) Group health plan means health insurance coverage for medical and dental care provided as an incident of employment and on existing terms and conditions as provided to employees similarly situated;

(5) Health care provider means:

(a) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(b) Any other person determined by the Secretary of Labor to be capable of providing health care services.

(6) Hours of service means hours of work in accordance with the principles of the Fair Labor Standards Act. Hours of service does not include paid leave time, non-compensable on-call time, or any other time not spent predominantly for the City's benefit;

(7) Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents "in law."

(8) Son or daughter means a biological child, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.

(a) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living." These include, grooming, hygiene, bathing, dressing, eating, etc.;

(b) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual;

(9) Spouse means a husband or wife, including those in same-sex marriages, which were made legal in the United States as of June 26, 2015 (See Obergefell v. Hodges, 135 S.Ct. 2584(2015));

(10) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

(a) Inpatient care in a hospital, hospice, or residential medical care facility; or

(b) Continuing treatment by a health care provider.

(11) The term "Covered active duty" means

(a) "Covered active duty" for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.

(b) "Covered active duty" or call to covered active duty status in the case of a member of the Reserve components of the Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, in accordance with 29 CR 825.102. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA in a 12-month period."

(12) The term "contingency operation" has the same meaning given such term in section 101(a)(13) of title 10, United States Code;

(13) The term "covered service member" means:

(a) A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

(b) A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

(14) Outpatient status, with respect to a covered service member, means the status of a member of the Armed Forces assigned to:

(a) A military medical treatment facility as an outpatient; or,

(b) A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(15) The term "next of kin", used with respect to an individual means the nearest blood relative of that individual;

(16) The "next of kin of a covered service member" is the nearest blood relative, other than the covered service member's spouse, parent, son or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin. For example, if a covered service member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered service member's next of kin. Alternatively, where a covered service member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered service member pursuant to 29 CFR 825.122(k).

(17) The term "serious injury or illness" means:

(a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

(b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered service member in the line of duty on active duty that may render the covered service member medically unfit to perform the duties of his or her office, grade, rank or rating.

(18) City means the City of Huntsville.

(19) Leave Year shall mean the 12-month period measured forward from the date an employee's initial FMLA leave begins.

(B) Leave Provisions .

(1) Eligibility. Eligible employees are entitled to take up to twelve (12) workweeks of leave during a Leave Year in the event of one or more of the following:

(a) The birth of the employee's son or daughter, and to care for the newborn child;

(b) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(c) To care for the employee's spouse, son, daughter, or parent with a serious health condition;

(d) A serious health condition that makes the employee unable to perform one or more of the functions of his/her job; and/or,

(e) An employee may take a FMLA leave due to incapacity due to pregnancy, prenatal medical care or child birth.

(f) Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered service member is on covered active duty or called to covered active duty.

(2) The entitlement to leave under Section 10.8(B)(1)(a) and Section 10.8(B)(1)(b) for birth or placement of a child shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

(3) Where spouses are both employed by the City of Huntsville and are eligible employees, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any twelve (12) month period, if such leave is taken:

(a) Under Section 10.8(B)(1)(a) or Section 10.8(B)(1)(b); or,

(b) To care for a sick parent under Section 10.8(B)(1)(c).

(C) Covered Service Member Family Leave.

(1) Subject to Section 10.8(C)(1)(a) an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve (12) month period to care for the covered service member. The leave described in this paragraph shall only be available during a single twelve (12) month period. Leave may be taken for the following reasons:

(a) Any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces in support of a contingency operation.

(b) To care for a covered service member with a serious injury or illness, incurred in the line of covered active duty, if the employee is the spouse, son, daughter, parent, or next of kin of the covered service member.

(c) Short-notice deployment.

(i) To address any issue that arises from the fact that a covered service member is notified of an impending call or order to covered active duty in support of a contingency operation seven or less calendar days prior to the date of deployment;

(ii) Leave taken for this purpose can be used for a period of seven calendar days beginning on the date a covered service member is notified of an impending call or order to covered active duty in support of a contingency plan.

(d) Military events and related activities.

(i) To attend and official ceremony, program, or event sponsored by the military that is related to the covered active duty or call to covered active duty status of a covered service member; and

(ii) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the covered active duty or call to covered active duty status of a covered service member;

(e) Childcare and school activities.

(f) Financial and legal arrangements.

(g) Counseling.

(h) Rest and recuperation.

(i) Post-deployment activities.

(2) An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

(a) Short-notice deployment

(b) Military events and activities

(c) Child care and school activities

(d) Financial and legal arrangements

(e) Counseling

(f) Rest and recuperation

(g) Post-deployment activities, and

(h) Additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

(3) During the single twelve (12) month period described in Section 10.8(C)(1), an eligible employee shall be entitled to a combined total of twenty-six (26) workweeks of leave under Sections 10.8(B)(1) and 10.8(C). Nothing in this paragraph shall be construed to limit the availability of leave under Section 10.8(B)(1) during any other twelve (12) month period.

(4) Where spouses are both employed by the City of Huntsville and are eligible employees, the aggregate number of workweeks of leave to which both may be entitled under Section 10.8(C) may be limited to twenty-six (26) workweeks during the single twelve (12) month period described in Section 10.8(C) if such leave is taken as follows:

(a) Leave under Section 10.8(C); or,

(b) A combination of leave under Section 10.8(C) and leave described in Section 10.8(B)(1).

(D) Notice

(1) In any case in which the necessity for leave under Section 10.8(B)(1)(a) or Section 10.8(B)(1)(b) is foreseeable based on an expected birth or placement, the employee shall provide the City written notice at least thirty (30) days, before the date of leave is to begin, of the employee's intention to take leave, except that if the date of birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such written notice at least two (2) workdays before leave is to begin, or as soon as practicable, considering the individual facts and circumstances.

(2) In any case in which the necessity for leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), or Section 10.8(C)(1)(a) is foreseeable based on planned medical treatment, the employee shall:

(a) Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the City, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent, as appropriate; and,

(b) Provide the City with not less than thirty (30) days written notice before the date the leave is to begin, of the employee's intention to take leave under such subsection, except that if the date of the treatment requires leave to begin in less than thirty (30) days, the employee shall provide such written notice at least two (2) work days before leave is to begin, or as soon as practicable, considering the individual facts and circumstances.

(3) In any case in which the necessity for leave under Section 10.8(C)(1)(a) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on covered active duty, or because of notification of an impending call or order to covered active duty in support of a contingency operation, the employee shall provide such notice to the City as is reasonable and practicable.

(4) Failure to provide written notice as prescribed in this Section shall be grounds to deny leave and the employee will be subject to City of Huntsville Personnel Policies and Procedures Manual, Section 10.14 (Leave Without Pay Unexcused). All notices required by employees for application for leave pursuant to the Family Medical Leave Act shall be in writing directly to the Human Resources Director. The Human Resources Director will notify the employee in writing regarding the approval or disapproval of the employee's Family Medical Leave Act request. The Human Resources Director will notify the employee's Department Head of the employee's written notice requesting the Family Medical Leave Act leave and of the action taken regarding the employee's written notice.

(5) Department Heads will notify the Human Resources Director whenever an employee has requested leave for any reason as defined in Section 10.8(B)(1) or Section 10.8 (C) of this Family Medical Leave Act Policy. The Human Resources Director is to be notified without regard to whether the employee has available paid leave.

(6) Department Heads will notify the Human Resources Director whenever an employee has used unscheduled leave for more than five

(5) consecutive workdays or has otherwise indicated that leave in excess of five (5) consecutive workdays may be needed by the employee for any reason as defined in Section 10.8 (B)(1) or Section 10.8(C) of this Family Medical Leave Act Policy.

(E) Leave Taken Intermittently or on a Reduced Leave Schedule

(1) An employee shall not take leave under Section 10.8 (B)(1)(a) or Section 10.8(B)(1)(b) intermittently or on a reduced schedule unless the employee and City agree otherwise. An employee may take leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), or Section 10.8(C) intermittently or on a reduced leave schedule when medically necessary. Medical necessity shall be determined and certified by a health care provider as provided in Section 10.8(E). Leave under Section 10.8(C)(1)(a) and 10.8 (C)(1)(b) may be taken intermittently or on a reduced leave schedule.

(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), Section 10.8(C), that is foreseeable based on planned medical treatment, the City may require such employee to transfer temporarily to an available alternative position offered by the City for which the employee is qualified and that:

(a) Has equivalent base pay and benefits; and,

(b) Better accommodates recurring periods of leave than the regular employment position of the employee.

(F) Medical Certification Requirement

(1) Medical certification is required for medical leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), or Section 10.8(C). The medical certification must be issued by the health care provider of the eligible employee or the health care provider of the son, daughter, spouse, or parent of the employee, or of the next of kin of an individual in the case of leave taken under Section 10.8(C), as appropriate. Medical certification must be returned within 15 days of receipt from the City.

The City may request recertification every 30 days unless the medical certification indicates that the minimum certification is more than 30 days. In the event the minimum medical certification is more than 30 days, the City will wait until that minimum medical certification expires before requesting a recertification. The employee shall have 15 days from the date they receive such notification to return the recertification to the City. Certification shall include:

(a) The date on which the serious health condition commenced;

(b) The probable duration of the condition;

(c) The appropriate medical facts within the knowledge of the health care provider regarding the condition;

(d) Certification for qualifying exigency shall include:

(1) A statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested;

(2) The approximate date on which the qualifying exigency commenced or will commence;

(3) If an employee requests leave because of a qualifying exigency for a single, continuous period of time, the beginning and end dates for such absence;

(4) If an employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency; and

(5) If the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting (such as the name, title, organization, address, telephone number, fax number, and e-mail address) and a brief description of the purpose of the meeting.

(e) Certification for care of covered service member shall include:

(1) The name, address, and appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, and whether the health care provider is one of the following:

(i) A DOD health care provider;

(ii) A VA health care provider;

(iii) A DOD TRICARE network authorized private health care provider; or

(iv) A DOD non-network TRICARE authorize private health care provider.

(2) Whether the covered service member's injury or illness was incurred in the line of duty on covered active duty;

(3) The approximate date on which the serious injury or illness commenced, and its probable duration;

(4) A statement or description of appropriate medical facts regarding the covered service member's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave.

(f) For purposes of leave under Section 10.8(B)(1)(c), a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent. For purposes of leave under Section 10.8(B)(1)(d), a statement that the employee is unable to perform the functions of his/her job;

(g) In the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(h) In the case of certification for intermittent leave, or leave on a reduced leave schedule, under Section 10.8(B)(1)(d), a statement of the medical necessity for the intermittent leave or

leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and,

(i) In the case of certification for intermittent leave, or leave on a reduced leave schedule, under Section 10.8(B)(1)(c), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(2) The City may require, at the expense of the City, the eligible employee obtain the opinion of a second health care provider designated or approved by the City concerning any information certified as provided above.

(3) When the second opinion differs from the opinion in the original certification, the City may require, at the expense of the City, the employee obtain the opinion of the third health care provider designated or approved jointly by the City and the employee. The opinion of the third health care provider concerning the information certified above shall be final and binding on the City and the employee.

(4) The City requires that requests for leave under Section 10.8(C)(1)(a) be supported by a certification issued at such time and in such manner as prescribed by 10.8(F)(d).

(5) At the conclusion of the employee's leave pursuant to the Family Medical Leave Act, where the leave was for the purpose of the employee's own serious health condition pursuant Section 10.8(B)(1)(d), the employee shall provide to the Human Resources Director, upon return to duty, a medical certification that the employee is fit to resume the functions of his/her job. The employee may be subject to a fitness for duty before he/she is able to be returned to duty.

(G) Employment and Benefit Protection

(1) Eligible employees who have been granted family or medical leave under this policy shall be entitled, on return from such leave, to be restored by the City to the position of employment held by the employee when the leave commenced, if that position is vacant. If that position is not vacant, the employee shall be restored to an equivalent position with equivalent employment benefits, base pay, and other terms and conditions of employment in effect at the time the leave commenced.

(2) Taking family or medical leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) The City shall maintain coverage under any group health plan for the duration of any approved leave at the level and under the conditions that coverage would have been provided, if the employee had continued in employment. Employees will be required to pay all premiums for group health plans during the period of absence to maintain eligibility for such benefits. Payment will be due at the same time as it would be made if by payroll deduction. The City will provide the employee with advance written notice of the terms and condition under which these payments must be made. The City reserves the right to use future pay checks to make up any arrears.

(4) The City's obligation to maintain health insurance coverage will cease if the employee's premium payment is more than 30 days late. The City will provide written notice to the employee that the payment has not been received. Such notice shall be mailed to the employee at least 15 days before the coverage is to cease.

(5) If coverage lapses because an employee has not made required premium payments, upon the employee's return from Leave, the City will restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payments had not been missed, including family or dependent coverage.

(H) Failure to Return to Work

(1) The City may recover the premium that the City paid for maintaining coverage for the employee under a group health plan during any period of unpaid leave under this policy under the following conditions:

(a) If the employee fails to return from the leave, after the period of leave to which the employee is entitled has expired; and,

(b) The employee fails to return to work for a reason other than the following:

(i) The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d) or Section 10.8(C); or,

(ii) Other circumstances beyond the control of the employee.

(2) The City may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in Section 10.8(H)(1)(b)(i) be supported by the following:

(a) A certification issued by the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate, in the case of an employee unable to return to work because of a condition specified in Section 10.8(B)(1)(c);

(b) A certification issued by the health care provider of the eligible employee, in the case of a employee unable to return to work because of a condition specified in Section 10.8(B)(1)(d); or,

(c) A certification issued by the health care provider of the covered service member being cared for by the employee, in the case of an employee unable to return to work because of a condition specified in Section 10.8(C). The employee may be subject to section 12.4 Maximum Job Absence and section 10.14 Leave Without Pay Unexcused of the Personnel Policies and Procedures Manual.

(I) Paid and Unpaid Leave

(1) Eligible employees are required to use all available annual leave and sick leave, when appropriate, concurrent with any leave

taken under this policy, prior to taking unpaid leave under the provisions of this policy.

(2) An eligible employee shall only use sick leave pursuant to Section 10.7 of the Personnel Policies and Procedure Manual.

(J) Unlawful Acts by Employer

(1) The City is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA.

(2) The City is prohibited from discharging or in any other way discriminating against any employee for opposing or complaining about any unlawful practice under the FMLA, or for any involvement in any proceeding under or relating to the FMLA.

(K) Compliance with Law

It is the intent of this policy to comply in all respects with the Family Medical Leave Act as set forth in 29 U.S.C. §§ 2601 et seq. In the event of any conflict between this policy and the federal law and regulations, the federal law and regulations shall govern.

#### **10.18 BEREAVEMENT LEAVE**

Bereavement leave is provided to employees in order that they may be with the family of the deceased during the immediate period following a death.

All full-time employees shall be entitled to bereavement leave with pay, not to exceed the next (3) three scheduled workdays (or twenty-four (24) scheduled work hours for fire suppression personnel), after a death in the immediate family. In the event that the funeral should be scheduled more than three (3) workdays after the death, the affected employee may elect to use the bereavement leave as the date of the funeral plus two (2) scheduled workdays either immediately preceding or following the day of the funeral.

Immediate family, for bereavement purposes, shall mean spouse, parents (including step-parents), grandparents, great-grandparents, child or step-child (including child-in-law and grandchildren), brothers or sisters (including step-brothers or step-sisters), and equivalent relations of the employee's spouse. Included within this definition are those persons who live with the family as a member of that family regardless of family relations.

Bereavement leave is paid only for regularly scheduled workdays missed and not for holidays, weekends, etc. An employee who is notified during his/her shift of a death in the family may leave early and count the partial day missed as the first day of paid bereavement leave, or take annual leave for the remainder of the partial day and bereavement leave for the next three (3) scheduled workdays (or next twenty-four (24) scheduled work hours, as appropriate).

## **19 EMPLOYEE ASSISTANCE PROGRAM (ORD. 08-776)**

### **19.1 GENERAL OVERVIEW**

The City of Huntsville is interested in the health and well-being of all our employees and feels that it is in the interest of everyone to deal with personal problems which affect our employees' job performance through the use of an Employee Assistance Program (EAP). The purpose of the City of Huntsville's EAP is to provide confidential, professional assistance to any full-time employee or any spouse or dependent family member of a full-time employee who desires such assistance.

The types of personal problems that the EAP is designed to help address include, but are not limited to, marital or family distresses, financial problems, emotional problems, and alcohol and drug abuse. The EAP will attempt to treat such personal problems by directing the employee or his/her family member, who is listed as a covered dependent on the City's group health plan, to the appropriate facility - a family counseling facility, a financial assistance facility, a psychiatric assistance facility, or a drug or alcohol treatment facility. Covered charges for medical and professional treatment will be handled in accordance with the provisions of the City's group insurance plan in effect at the time of treatment.

There may be some cause outside the realm of job responsibilities which is the basic reason for the problem, when an employee's job performance deteriorates from expected standards and the employee is unable or unwilling to correct the situation either alone or with the assistance of his/her supervisor. Identification of unsatisfactory job performance will include such factors as documented absenteeism, tardiness, job related accidents, and generally lowered job efficiency which persists over a period of time, either constantly or intermittently. An employee exhibiting such symptoms may be referred to the Health Center Resources and Program Manager for an evaluation of the problem.

The Health Center Resources and Program Manager is the initial contact person for employees or their family members and supervisors seeking information about the EAP. The Health Center Resources and Program Manager arranges referrals to sources of assistance and the Health Center Resources and Program Manager functions as the City's contact for those sources. Once the referral has been completed and treatment is provided, the Health Center Resources and Program Manager may monitor the employee's continued participation and follow-up on such participation as appropriate.

An employee who has a problem which he/she feels may affect his/her job performance is encouraged to voluntarily seek information by contacting the Health Center Resources and Program Manager. Strict confidentiality of records and information will be maintained. Those

receiving help will not have job security, promotion opportunities, or reputation jeopardized by participating in the program. However, participation in an EAP will not alter or supersede existing procedures for correcting unsatisfactory performance, nor preclude disciplinary action where appropriate.

## **19.2 REFERRAL PROCEDURES**

### **(A) Types of Referral**

Employees may obtain professional assistance through the Employee Assistance Program in one of the following ways:

- (1) Self-Referral, including Family Referral;
- (2) Supervisor Referral;
- (3) Medical Referral; or,
- (4) Disciplinary Proceedings Referral.

### **(B) Referral Procedures**

The following procedures are designed to facilitate each of these types of referral to the program:

#### **(1) Self-referral, including family referral**

(a) An employee, or a dependent family member, who desires confidential assistance for a personal problem should call the Health Center Resources and Program Manager;

(b) The Health Center Resources and Program Manager will either provide the necessary assistance on the telephone or will arrange to see the individual for further confidential consultation; and,

(c) All communications between the employee and the Health Center Resources and Program Manager will be held in strictest confidence, unless the employee requests in writing that City of Huntsville official or other parties be notified. The City of Huntsville will in no way require the reporting of names of self-referred employees or family members.

#### **(2) Supervisor referral**

(a) A supervisor may make a referral to the Health Center Resources and Program Manager when there is a deterioration in the employee's performance, which appears to be the result of a personal problem;

(b) If the supervisor determines that a problem is of a serious nature, he/she should call the Health Center Resources and Program Manager and discuss the on-the-job incidents or the pattern of declining performance. The supervisor should make available to the Health Center Resources and Program Manager all information the Health Center Resources and Program Manager deems relevant to the matter;

(c) The supervisor should have a meeting with the employee to discuss the employee's declining performance and the possible supervisory action that may result if the performance does not improve; and,

(d) After the supervisor has discussed the recurrent performance problem with the employee, the supervisor should remind the employee of the EAP, advise him/her of the availability of confidential professional assistance for any work hampering personal problem, and strongly encourage the employee to allow the supervisor to obtain an appointment with the Health Center Resources and Program Manager. Though the final decision to use the program is the employee's, the supervisor should emphasize the importance of the EAP. Use of the EAP shall not be a condition for continuing employment.

(i) If the employee chooses not to accept assistance at this time, the supervisor should reinforce the City of Huntsville's expectation for satisfactory performance and the consequences of failure to perform satisfactorily. The supervisor should also mention that the EAP is available should the employee change his/her mind in the future; or,

(ii) If the employee chooses to accept assistance at this time, all information pertaining to the employee's referral to the EAP will be accorded the highest standards of confidentiality;

### (3) Medical referral

(a) The basis of the referral should be either:

(i) The identification of a medical symptom or disorder which is commonly associated with a personal problem; or,

(ii) A request from the employee for advice or assistance regarding a personal problem;

(b) The health care provider will conduct an evaluation of the employee to discuss the medical symptoms or disorders which may indicate a personal problem. The employee will be advised of the EAP and, if appropriate, an appointment will be arranged;

(c) The health care provider will advise the employee that an appointment may be viewed as part of the prescribed treatment plan and the referral by the health care provider may become part of the employee's medical records. The freedom to decide whether or not to accept assistance through the EAP will remain with the employee; and,

(d) The employee will be advised that the same high standards of confidentiality accorded other medical information apply to referral to the EAP. There will be no report made to the employee's supervisor without the employee's written permission;

(4) Disciplinary proceedings referral

The City's Drug and Alcohol Policies provides that an employee disciplined under the provisions of its policy may be subject to referral to a Substance Abuse Professional (SAP). An employee, who has been referred to a SAP as a result of a non-voluntary referral pursuant to the Drug and Alcohol Policies and who refuses to accept referral or fails to successfully complete the program within the time required, may be subjected to disciplinary action. The SAP is authorized to report the completion status of an employee to the Health Center Resources and Program Manager, who shall report the status to the employee's Department Head or Division Manager, or other designated representative. Thereafter, the official may proceed with discipline in accordance with Section 13 of these policies and procedures governing conduct and discipline.

### **19.3 PROBLEM ASSESSMENT/EVALUATION**

The Health Center Resources and Program Manager will assist referred employees in the following manner:

(A) Explain the purpose and function of the EAP;

(B) Conduct an initial interview to assess the nature of the employee's problem. After assessing an employee's problem, the Health Center Resources and Program Manager may recommend specialized assistance. Charges for specialized assistance are the responsibility of the employee, but may be covered under the employee's insurance benefits;

(C) Consult with a Licensed Professional Counselor, a Certified Addiction Counselor, or other health care provider to determine the adequacy of various care agencies;

(D) Arrange referral for appropriate care consistent with the employee's needs. Success of care may vary depending upon factors outside the control of the City; therefore, the City makes no representations as to the results of any program; and,

(E) Follow-up, where appropriate, with the caregiver to determine how the employee is progressing.

To the extent necessary to perform his/her responsibilities, the Health Center Resources and Program Manager may request that an employee sign a consent to release information to the Health Center Resources and Program Manager or to any actual or potential caregiver in order to facilitate the treatment of the employee. The decision to sign the consent is at the sole discretion of the employee.

#### **19.4 EDUCATION AND TRAINING**

The Health Center Resources and Program Manager may educate and train the City of Huntsville employees and supervisors in the following ways:

(A) Communicating EAP Services--It is important that employees and their families are informed about the City of Huntsville's EAP and the services it offers. It is also important that employees and their families are continually updated by various education techniques on the EAP's existence and availability. Information about the EAP should be made available to all new employees and their families;

(B) Employee Education--The Health Center Resources and Program Manager should conduct a drug awareness education program for employees which will inform employees about the dangers of drug and alcohol abuse, the indicators of drug and alcohol use, and the City's policy of maintaining a drug-free workplace; and,

(C) Supervisory Training--Supervisory personnel should receive additional training in identifying a troubled employee. Such training will be directed towards helping supervisors recognize the conduct and behavior of a troubled employee.

#### **19.5 CONFIDENTIALITY**

Participation in the EAP is confidential. To ensure confidentiality, the following provisions shall apply:

(A) Information about an individual's participation shall not be released to anyone without the individual's written consent, unless subpoenaed by a duly authorized court of law;

(B) City employees and their family members who utilize the EAP services may be requested to anonymously complete an evaluation form.

The evaluation form should be returned by mail and should include whether the services received and locations of services were satisfactory;

(C) Unless an employee has consented to the release of information, the Health Center Resources and Program Manager shall receive only summary information from the caregivers to enable the City to assess the usefulness of the program and, where necessary, to ascertain compliance with disciplinary action. Information provided to the Health Center Resources and Program Manager shall ordinarily, in the absence of the employee's consent, be limited to whether employees attend their appointments, whether employees are participating in the program, whether employees are following recommended advice, and the number of employees who have utilized the services provided by the caregiver; and,

(D) An employee or a counselor from the institution providing the care may find it desirable to share information with an employee's supervisor. Although a counselor may suggest such sharing of information, the final decision about providing information rests with the employee. An employee may share any information he/she wishes at any time. A counselor from the caregiver, however, shall provide information only after receiving written consent from the employee and shall only provide information to the Health Center Resources and Program Manager; otherwise, no information regarding the nature of the employee's personal problem shall be shared with the Health Center Resources and Program Manager. It is the responsibility of the Health Center Resources and Program Manager to obtain the written consent of the employee if any information is to be provided to other City officials.

#### **19.6 DISCIPLINARY ACTIONS**

The EAP is not a substitute for the City's published disciplinary procedures. Neither special privileges nor exemptions from performance standards will be granted to an employee participating in the EAP. While an employee may be referred to the EAP as a result of a disciplinary action taken under the City's Drug and Alcohol Policies or the Conduct and Disciplinary Policy, responsibility for seeking treatment under the EAP is the employee's.

#### **19.7 COSTS**

There is no charge to an employee or his/her family members for using the services of the Health Center Resources and Program Manager. The Health Center Resources and Program Manager may sometimes refer the employee or his/her family members to free community services; however, there may be a fee for other professional services not covered under the employee's insurance benefits. The City is not responsible for the cost of professional services not covered under the employee's insurance benefits.

## 19.8 INQUIRIES

Questions about the EAP may be directed to the Health Center Resources and Program Manager. The Health Center Resources and Program Manager may be reached by contacting the City's Huntsville Health & Wellness Center. Employees seeking information regarding EAP services are not required to identify themselves other than to state that they are full-time employees of the City of Huntsville.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama