# CITY AND COUNTY OF BROOMFIELD LEAVE POLICY

# PART-TIME EMPLOYEES WHO WORK LESS THAN 20 HOURS PER WEEK IN ANY ONE POSITION AND TEMPORARY EMPLOYEES

POLICY STATEMENT: All Employees are expected to be in attendance, ready for work and on time at their assigned work stations as scheduled in accordance with the "Personnel Merit System" and departmental rules and regulations. Prompt, regular and reliable attendance is critical for the efficient operation of our organization. The term "Employer" in this policy refers to the City and County of Broomfield. The term "Employee" in this policy refers to 1) part-time employees working less than 20 hours per week in any one position on a year round basis; and 2) temporary employees who are hired for a limited period of time, normally not to exceed nine months in duration, or employees hired as substitutes to fill in for a specific position on an as-needed basis. Full-time employees and part-time employees working more than 20 hours per week in any one position on a regularly scheduled year round basis are not eligible for benefits under this policy. Unauthorized absences from work for a period of three days or longer may be considered a voluntary resignation. Violations of this leave policy will be cause for corrective or disciplinary action in accordance with the City and County's Personnel Merit System.

Employees are <b>not</b> paid for holidays. However, for information purposes only, the holidays observed by the City and County are listed below:
<u>Holidays</u>
New Year's Day (January 1)
Martin Luther King's Birthday (Third Monday in January)
President's Day (Third Monday in February)
Memorial Day (Last Monday in May)
Independence Day (July 4)
Labor Day (First Monday in September)
Veteran's Day (November 11)
Thanksgiving Day (Fourth Thursday in November)
Friday following Thanksgiving
Christmas Eve (December 24)
Christmas Day (December 25)
Note: Generally, when a holiday falls on a Saturday, the holiday will be observed on the

preceding Friday. Generally, when a holiday falls on a Sunday, the holiday will be observed on

the following Monday.

<u>CIVIL LEAVE (Juror Service)</u>: Subject to the provisions of this policy, civil leave may be provided to Employees for the purpose of providing paid time off for Employees called for juror service. This civil leave policy applies to juror service only and does not provide civil leave to an Employee making a non-job-related court appearance.

<u>Pay During Juror Service</u>: Employees who are called for juror service will receive 100 percent of pay for scheduled working hours during the first three days of juror service. Employees who complete juror service in excess of three days will receive no pay from the Employer for scheduled working hours beginning on the fourth day and through the duration of their juror service, and are entitled to retain all payment received for jury service from the Court. The Employee's supervisor may request documentation from the Employee verifying the duration of the juror service. If an Employee reports for juror service and is excused for the day, he or she should report to his or her work assignment within one hour from the time he or she is excused unless the commuting time required to return to work makes this impractical.

<u>CIVIL LEAVE (Election Day)</u>: Subject to the provisions of this policy, Employees who are eligible electors entitled to vote at an election shall be provided Civil Leave for a period of two hours during the time the polls are open, unless there are three or more hours between the time of opening and the time of closing of the polls during which the Employee is not required to be on the job. The leave is for the purpose of voting on election day.

For example, the polls are normally open for voting from 7 a.m. to 7 p.m. If an Employee is scheduled to work from 8 a.m. to 5 p.m., then this Employee has one hour between 7 a.m. and 8 a.m. and 2 hours between 5 p.m. and 7 p.m.--making a total of three hours between the time of opening and the time of closing of the polls during which the elector is not required to be on the job. Thus, this Employee is not provided the two hours of scheduled working time in which to vote.

Employees shall request time off to vote from their supervisor one day prior to the election day. Advance notice is required so that the necessary time can be scheduled at the beginning or the end of the work shift; whichever provides the least disruption to the normal work schedule.

MILITARY LEAVE: This section applies to part-time employees and may apply to temporary employees in some limited circumstances. Subject to the provisions of this policy CRS § 28-3-601 and the Uniformed Services Employment and Reemployment Rights Act of 1994, Chapter 43 of Title 38, United States Code, military duty leave may be provided to Employees for the purpose of attending military training or for entering active military service as a member of the armed forces of the United States or National Guard, voluntarily or involuntarily. USERRA (Uniformed Services Employment and Reemployment Rights Act of 1994) prohibits discrimination in hiring, firing, promotion, training, or any other benefit or advantage of employment for the past, present, or future participation in uniformed services. The military leave cannot exceed five years (with certain exceptions).

An Employee's entitlement to benefits under this policy terminates upon the occurrence of any of the events set forth in 38 U.S.C. § 4304 (1994).

Unless precluded by military necessity, Employees must provide advance notice, orally or in writing, of the need for military leave to the Employee's supervisor. If orders are given to the Employee verbally, the employee should forward a copy of his or her written orders when available.

# Pay During Military Training or Active Service:

An Employee shall be eligible for military leave up to a maximum of 15 work days in a calendar year to attend military training or active service ordered or authorized by proper authority pursuant to law, whether for state or federal purposes. If the Employee is required by proper authority to continue in military training or active service in excess of 15 work days in a calendar year, such absence will be charged to leave without pay.

Process for receiving military leave is as follows: The Employee requests military leave on his/her timesheet and attaches a copy of the orders or provides the orders as soon as possible.

<u>Replacement For Vacant Position:</u> The supervisor can fill the position, if necessary, with the understanding that a reduction-in-force will occur if the individual on military leave returns. See applicable section of the Personnel Merit System at Chapter 2-14 of the Broomfield Municipal Code.

<u>Re-employment After Military Training:</u> Subject to applicable provisions of USERRA, an Employee who completes military training will be reemployed upon the completion of such training.

<u>Re-employment After Active Military Service:</u> Subject to USERRA, an Employee who completes active military service will be reemployed following return from active duty provided the individual makes application for reemployment with the Human Resources Department within the time frame after being relieved from active military service or after being discharged from hospitalization continuing after active military service (but only if the period of hospitalization continuing after active military service does not exceed two years). Time limits for returning to work depend on the length of the Employee's military service.

**Service up to 30 calendar days:** The returning Employee must report to the Employer by the next regularly scheduled workday on the first full day following completion of service and an eight hour rest period following safe transportation home.

**Service of 31 – 180 calendar days:** An application for reemployment must be submitted no later than 14 calendar days after completing military service.

**Service of 181 calendar days or more (to a maximum of five years):** An application for reemployment must be submitted no later than 90 calendar days after completing military service.

**Service-related disability:** Returning Employees who are hospitalized for or convalescing from injuries incurred in or aggravated by military service may apply for reemployment within two years following recovery from such injuries.

These reemployment rights do not apply if the Employee does not submit an honorable discharge or other form of release from proper authority indicating that his or her military service was satisfactory. If the Employee fails to apply for reemployment or report to work within the specified time limits, the returning Employee will be subject to the Employer's rules governing job abandonment as outlined in the Personnel Merit System.

Upon returning from military duty leave, the Employee has the right to prompt reinstatement, accrued seniority, training or retraining, and accommodation for disabilities incurred while in military service. If the period of service was 90 calendar days or less, reinstatement is to the exact job the Employee would have had if continuously employed, provided the Employee is still

qualified. If service was for 91 calendar days or more, the Employer has the option to reemploy the Employee in another position of like seniority, status, and pay, the duties of which the Employee is qualified to perform after reasonable efforts by the Employer to qualify the Employee. For returning Employees who are disabled during military service, the Employer will make reasonable efforts to accommodate the returning Employee's disability.

Reemployment of a person is excused if an Employer's circumstances have changed so much that reemployment of the person would be impossible or unreasonable, for example, a reduction in force that would have included the person.

**LEAVE WITHOUT PAY:** Subject to the provisions of this policy, leave without pay (LWOP) may be granted to Employees in the following circumstances:

- The Employee is eligible for leave in accordance with FMLA. LWOP is requested for a FMLA qualified event and the appropriate documentation is provided.
- The Employee is eligible for leave in accordance with USERRA. LWOP is requested for a USERRA qualified event and the appropriate documentation is provided.
- The Employee is not eligible for leave in accordance with the FMLA or USERRA and 1) the Employee's employment and leave records are satisfactory; and 2) the value to the Employer and the serious needs of the Employee are sufficient to offset the cost and administrative inconvenience of granting the LWOP.
- The Employee is receiving Temporary Total or Partial Disability from the Workers' Compensation Insurance Fund.

LWOP of 40 or fewer hours in a rolling 12-month period is subject to approval by the department head or designee. LWOP in excess of 40 hours in a rolling 12-month period must be routed through the Human Resources Department and then approved by the City and County Manager. The supervisor is responsible for initiating the memorandum requesting LWOP. A sample form is available on the Intranet (Digital Dashboard) under Human Resources.

<u>Maximum Leave Period for a FMLA Qualified Event:</u> LWOP may be granted for a specified period of time not to exceed the number of work hours the Employee would have been scheduled to work for 12-work weeks in a rolling 12-month period.

<u>Maximum Leave Period for a USERRA Qualified Event:</u> LWOP may be granted for the period specified under USERRA.

Maximum Leave Period for a non-FMLA or non-USERRA Qualified Event: LWOP may be granted for a specified period of time not to exceed the number of work hours the Employee would have been scheduled to work for 12-work weeks in a rolling twelve month period.

<u>Calculation of the Twelve Month Period:</u> A "rolling" 12-month period is measured backward from the date an Employee uses any leave associated with the event that triggers the need for LWOP.

<u>Return to Work:</u> If the Employee is using LWOP to cover an absence relating to personal Sickness or off-the-job Injury/Disability, the Employee may be required to have his or her Physician complete the "Physician's Release to Return to Work" form prior to his or her return to Active Status. If required, the Employee must provide a copy of this form to his or her immediate supervisor and the original form to the Human Resources Department on or before his or her first

day back to work. If job restrictions are noted, the Employer will evaluate whether a modified duty assignment is available and will meet with the Employee to discuss next steps.

<u>Reinstatement:</u> At the expiration of LWOP, the Employee may be reinstated to the position vacated in accordance with the FMLA and USERRA. Reinstatement may be denied if:

- 1. the Employee would not otherwise have been employed at the time reinstatement is requested; or
- 2. the Employee is no longer qualified for the position and fails to fulfill the qualification conditions within a reasonable time following return to work

# <u>Limitation of Benefit:</u> LWOP ends on the earliest of:

- 1. The date the Employees ceases to be eligible or dies;
- 2. The date the Employee exceeds the maximum leave period;
- 3. The date the Employee is able but chooses not to return to Active Service; or
- 4. The date the Employee fails to submit the required documentation, without good cause.

<u>ADMINISTRATIVE LEAVE</u>: The City and County Manager may authorize programs outside the scope of this Leave Policy in order to grant administrative leave to Employees. Administrative leave may be paid or unpaid.

<u>FAMILY AND MEDICAL LEAVE:</u> Subject to the provisions of this policy, Employees may be eligible for time off without pay for Family or Medical Leave under the Family and Medical Leave Act (FMLA).

<u>Definitions:</u> Some words or terms are defined within this section. Additional definitions for words or terms used in this section can be found at the end of this Leave Policy. Employees should refer to the Definitions section to find out exactly how, for purposes of this Policy, a word or term is used.

<u>Eligibility for Leave:</u> Employees who have been employed by the Employer at least 12 months (This need not be consecutive, however; employment prior to a continuous break in service of seven or more years will not be counted) and who have worked at least 1,250 hours during the 12 months preceding the commencement of Family or Medical Leave are eligible for said leave if certain conditions are met.

#### Amount of Leave/Reasons for Leave:

Except in the case of time off taken to care for a Covered Servicemember with a Serious Injury or Illness, an eligible Employee may be granted time off for a period of up to 12 workweeks during a 12 month period as defined under "Calculation of Twelve Month Period" for any one, or more, of the following reasons:

- 1. Medical Leave due to the inability of the Employee to perform the functions of his or her position due to a Serious Health Condition caused by Sickness or Injury; or
- 2. Family Leave due to:
  - Father's attendance at the birth of his Child:
  - Parent's care of a newborn, if completed within 12 months following the birth of his or her Child;

- Placement of a son or daughter with the Employee for adoption or foster care, if completed within 12 months after the date of placement; or
- Care for Spouse, Child or the Parent of the Employee who has a Serious Health Condition.
- For Qualifying Exigencies arising out of the fact that the Employee's Spouse, Son, Daughter, or Parent is a service member on active duty (or has been notified of an impending call or order to active duty in support of a contingency operation).

If both husband and wife are Employees, they are limited to a combined total of 12 weeks of leave during a 12 month period as defined under "Calculation of Twelve Month Period" for 1) the birth of the Employee's Child or to care for the Child after birth, 2) for placement of a Child for adoption or foster care, or to care for the Child after placement, or 3) to care for the Employee's Spouse, Child or Parent with a Serious Health Condition.

<u>Calculation of the Twelve Month Period:</u> A "rolling" 12-month period is measured backward from the date an employee uses any Family or Medical Leave except for leave taken to care for a Covered Servicemember's Serious Injury or Illness. Each time the employee takes Family or Medical Leave, the remaining leave would be the balance of the 12 weeks which has not been used during the preceding 12 months. Example: an employee takes 4 weeks beginning February 1, 2009; 4 weeks beginning June 1, 2009 and 4 weeks beginning December 1, 2009. On March 1, 2010, the employee wants to take leave and would only be entitled to 4 weeks.

In the case of time off taken to care for a Covered Servicemember with a Serious Injury or Illness, an eligible Employee may be granted time off for a period of up to 26 workweeks during a single 12-month period as follows to care for a Covered Servicemember:

The Employee may be granted time off for a period of up to 26 workweeks to care for a Covered Servicemember with a Serious Injury or Illness within a single 12-month period. The single 12-month period begins on the first day the Employee takes time off to care for the Covered Servicemember and ends 12 months after that date. If an Employee does not take all of his or her 26 workweeks of time off to care for the Covered Servicemember during this single 12-month period, the remaining part of his or her 26 workweeks of time off to care for the Covered Servicemember is forfeited. The Employee may be entitled to take more than one period of 26 workweeks of time off if the leave is to care for a different Covered Servicemember or to care for the same Covered Servicemember with a subsequent Serious Injury or Illness, except that no more than 26 workweeks of time off may be taken within any single 12-month period. A husband and wife who are Employees are limited to a combined total of 26 workweeks of time off during the single 12-month period.

If the eligible Employee has taken Family or Medical Leave for 1) Father's attendance at the birth of his Child; 2) Parent's care of a newborn; 3) Placement of a Child with the Employee for adoption or foster care; 4) Care for Spouse, Child or the Parent of the Employee who has a Serious Health Condition; or 5) For Qualifying Exigencies, and the Employee requests additional leave to care for a Covered Servicemember, he or she may only take the balance of the 26 workweeks of leave during the single 12-month period (The Employee would not be eligible for 26 workweeks plus 12 workweeks).

<u>Notification Requirement for Requesting Leave:</u> When an eligible Employee requests Family or Medical Leave or if the Employer acquires knowledge that an eligible Employee's leave may be for an FMLA-qualifying reason, the Employer must notify the eligible Employee of the Employee's eligibility to take Family or Medical Leave within five business days.

When the need for the leave is foreseeable, the Employee must submit a "Leave Request for Medical or Family Leave" form to his or her supervisor and the Human Resources Department at least 30 calendar days prior to the date the leave is to commence. Failure to timely provide the notice may result in the delay of leave commencement until 30 calendar days after the notice is received. Notice from the Employee requesting foreseeable leave for Qualifying Exigencies must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable. The Employee must also make a reasonable effort to schedule treatment so not to unduly disrupt the Employer's operations.

If the leave is unforeseeable, the Employee is expected to give notice to the Employer of the need for FMLA leave as soon as practicable under the circumstances. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. When an Employee becomes aware of a need for Family or Medical Leave less than 30 days in advance, it should be practicable for the Employee to provide notice of the need for leave either the same day or in the case of the Employee's incapacitation, the soonest notice can be given by a family member or by the Employee.

In the event of a medical emergency, notice may be given in person or by phone, and in the event of the Employee's incapacity, by the Employee's Spouse or other family member.

The Employee shall notify the Human Resources representative as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

The Employer notice will include, as appropriate:

- That the leave may be designated and counted against the Employee's Family or Medical Leave balance if qualifying and the applicable 12-month period,
- Any requirements for the Employee to furnish the appropriate certification form, and the consequences for failing to do so,
- Any requirement for the Employee to make premium payments to maintain benefits and the arrangements for making such payments, along with the possible consequences of failure to make such payments on a timely basis,
- The Employee's right to restoration to the same or an equivalent job upon return from Family or Medical Leave,
- Whether the Employer will require periodic reports of the Employee's status and intent to return to work.
- The requirement for the Employee to submit the Return-to-Work form completed by the Health Care Provider prior to returning to work. The Employee cannot return to work until the form is submitted to his or her immediate supervisor or Human Resources. The Employee must provide a copy of this form to his or her immediate supervisor and the original form to Human Resources on or before his or her first day back to work.

<u>Medical Certification:</u> Medical certification is required under the following circumstances:

- 1. for Medical Leave; or
- 2. for Family Leave.

The Employee must submit the appropriate completed certification form within fifteen calendar days of receiving notice from Human Resources, or the request may be denied until the certification is received. Documentation confirming family relationship, adoption or foster care may be required.

Recertification and the use of second and third opinions are not allowed when the Employee is taking leave to care for a Covered Servicemember.

<u>Description of the certification forms</u>. The Human Resources representative will send the applicable form to the Employee with the Employer Notice letter once the Human Resources representative becomes aware of the Employee's need to request Family or Medical Leave. There are four certification forms available depending on the nature of the qualifying event:

- Certification of Health Care Provider for Employee's Serious Health Condition (Form WH-380-E) – Employer, Employee and Employee's Health Care Provider are responsible for completing designated sections of this form.
- Certification of Health Care Provider for Family Member's Serious Health Condition (Form WH-380-F) – Employer, Employee and Family Member's Health Care Provider are responsible for completing designated sections of this form.
- Certification for Serious Injury or Illness of a Covered Servicemember for Military Family Leave (Form WH-385) - Employee and Servicemember's Health Care Provider are responsible for completing designated sections of this form.
- Certification for Qualifying Exigency for Military Family Leave (Form WH-384) Employer and Employee are responsible for completing designated sections of this form.

The applicable certification form must be submitted to the Human Resources representative within 15 calendar days after the Human Resources representative's request, unless it is not practicable. If the submitted form is incomplete or insufficient, the Human Resources representative will advise the Employee, in writing, what additional information is necessary to make the certification complete and sufficient. The Employee has seven calendar days to cure any deficiency. Failure by the Employee to cure any deficiency may result in the denial of the request for Family or Medical Leave.

<u>Medical Examinations:</u> The Employer reserves the right to require an Employee to obtain a second medical opinion, at Employer expense, and if the leave extends beyond 30 calendar days to obtain additional medical certification. However, if the initial medical certification indicates that the minimum duration of the condition is more than 30 days, the Employer must wait until that minimum duration expires before requesting recertification unless 1) the Employee requests an extension of leave, 2) circumstances described by the previous certification have changed significantly, or 3) the Employer receives information that casts doubt upon the Employee's stated reason for the absence or the continuing validity of the certification.

Any recertification requested by the Employer shall be at the Employee's expense unless the Employer provides otherwise.

<u>Condition of Leave</u>: Family and/or Medical Leave will consist of unpaid leave. The cumulative length of leave cannot exceed the applicable 12 or 26 workweeks within the applicable 12-month period and is not 12 or 26 workweeks per incident.

<u>Return to Work:</u> Prior to return to work from a Serious Health Condition, the Employee must assure that his or her Health Care Provider has completed the "Health Care Provider's Release to Return to Work" form prior to his or her return to Active Status. The Employee must provide a copy of this form to his or her immediate supervisor and the original form to the Human Resources Department <u>on or before</u> his or her first day back to work. If job restrictions are noted, the Employer will evaluate whether a modified duty assignment is available and will meet with the Employee to discuss next steps.

The cost of the return-to-work certification shall be borne by the Employee.

Human Resources may contact the Employee's Health Care Provider for purposes of clarifying and authenticating the return-to-work certification.

Intermittent Leave and Reduced Leave Schedule: In a limited circumstance as described below, an Employee who is eligible for Family or Medical Leave may be permitted to work a reduced schedule or receive periodic time off from work. In cases of a Serious Health Condition of the Employee or a family member (Spouse, Parent or Child), Serious Injury or Illness of a Covered Servicemember or Qualified Exigency, such leave may be granted in circumstances noted under the Family and Medical Leave Act. The Employee must submit the "Leave Request for Family or Medical Leave" form and the appropriate "Certification of Health Care Provider" form indicating the need for intermittent leave or reduced leave schedule. Where a reduced work schedule or intermittent leave is foreseeable based on planned medical treatment, the Employer may temporarily transfer the Employee to a comparable position that better accommodates the Employee's recurring periods of leave if such a position is available and such transfer would be consistent with the needs of the Employer.

In other cases in which Employees are eligible for Family or Medical Leave, such as pregnancy and child care, adoption or placement of a Child, the Employer may review the individual circumstances involved in considering reduced schedule or intermittent leave requests. The Employer may take into account the Employee's length of service, number of requests, duties, work load and Employee's job performance in making such decisions. Intermittent leave will not be granted beyond 12 months following the birth of the Child or adoption or placement of a Child.

The Employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the Employer's operation.

<u>Employment Protection:</u> Following FMLA leave, the Employee shall be returned to the same position held before taking the leave, or to a position which is equivalent in terms of employment benefits, hours, pay, and other working conditions. Subject to the applicable provisions of the Personnel Merit System, reinstatement may be denied if:

1. the Employee would not otherwise have been employed at the time reinstatement is requested;

- 2. the Employee is no longer qualified for the position and fails to fulfill the qualification conditions within a reasonable time following return to work.
- 3. the Employee is unable to perform the position because of a physical or mental condition, including the continuation of a Serious Health Condition. This provision is subject to the requirements of the Americans with Disabilities Act.
- 4. the Employee is a <u>key employee</u>, a salaried employee among the highest paid 10% of employees, and reinstatement would result in substantial and grievous economic injury to the Employer.

## Procedures:

- 1) The "Employee Rights and Responsibilities under the Family and Medical Leave Act General Notice" is available to all applicants, new hires and employees.
- 2) The Employee must notify the Employer either through his or her supervisor or to Human Resources directly of an absence that qualifies under Family or Medical Leave.
- 3) Once Human Resources has been notified, a "Notice of Eligibility and Rights and Responsibilities" form as well as the appropriate Certification form will be sent to the Employee. The Employee must complete and return the required forms to Human Resources within 15 calendar days. Failure to provide notification and appropriate certification in a timely manner may result in denial of Family or Medical Leave.
- 4) Upon receipt of the required forms, Human Resources will send the Employee a "Designation Notice" indicating whether or not the Family or Medical Leave has been approved. If further information or clarification is necessary, the Employee will have seven calendar days to supply it or the leave may be denied.
- 5) During the Family or Medical Leave, leave without pay should be recorded on the timesheet with a designation from the Employee indicating which leave without pay hours are being applied to Family or Medical Leave.
- 6) If the Employee's Family or Medical Leave period has been exhausted, and the Employee is still not able to return to work, the Employee must contact his or her supervisor and Human Resources to explore other options, if any.
- 7) If the Employee requests to be out longer than the maximum period he or she qualifies for under the Family and Medical Leave Act, the request will be forwarded to the appropriate approval level for consideration.

<u>Other Information:</u> Electronic access to the Family and Medical Leave Act: Code of Federal Regulations, Part 825 is available through Broomfield's intranet site.

<u>Unlawful Acts:</u> The FMLA makes it unlawful for the Employer to interfere with, restrain, or deny the exercise of any right provided under the FMLA; or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to the FMLA.

<u>Enforcement:</u> The Employee may contact Human Resources if he or she has a complaint regarding this policy. A complaint may also be filed with the U.S. Department of Labor.

**<u>DOMESTIC ABUSE LEAVE:</u>** Subject to the provisions of this policy, Employees may be eligible for time off without pay if they are the victims of the following statutorily defined events:

- 1. domestic violence or abuse;
- 2. stalking;
- 3. sexual assault; or
- 4. a crime found by a court on the record to include an act of domestic violence.

If an Employee has been with the Employer for more than 12 months and has been the victim of one of these statutorily defined events then he or she may request up to three working days off in a 12-month period. The Employee must use this unpaid leave for one or more of the following reasons:

- 1. seeking a civil restraining order to prevent domestic abuse;
- 2. seeking services from a domestic violence shelter, program or rape crisis center as a result of domestic violence;
- 3. as a result of domestic abuse, stalking, sexual assault, or any other crime involving domestic violence:
  - Obtaining medical care or mental health counseling for himself or herself or his or her children to address physical or psychological injuries arising from the act or crime;
  - Making his or her home secure from the perpetrator or seeking new housing to escape the perpetrator;
  - Seeking legal assistance to address the issues and attending and preparing for court-related proceedings arising from the act or crime.

Condition of Leave: Domestic Abuse Leave will consist of unpaid leave.

<u>Calculation of the Twelve Month Period:</u> A "rolling" 12-month period is measured backward from the date an employee uses any Domestic Abuse Leave. Each time the employee takes Domestic Abuse Leave, the remaining leave would be the balance of the three days which has not been used during the preceding 12 months. Example: an employee takes one day on February 1, 2003; one day on beginning June 1, 2003 and one day on December 1, 2003. On February 2, 2004, the employee would be eligible for a new period of Domestic Abuse Leave.

<u>Notification Requirement:</u> The Employee completes the "Request for Domestic Abuse Leave" form and forwards said form to his or her supervisor. The supervisor acknowledges the request by signing the form and forwards the form to Human Resources for recordkeeping purposes. An Employee must notify his or her immediate supervisor of his or her need for leave at least 24 hours in advance of the use of leave except in cases of imminent danger to the health or safety of the Employee. Please note that some departments may require a longer period of advance scheduling.

The supervisor may require the Employee submit one or more of the following types of documentation to support the request for leave:

- A police report indicating that the Employee was a victim of domestic violence;
- 2. A court order protecting or separating the Employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the Employee appeared in court; or

3. Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the Employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

PARENTAL INVOLVEMENT IN KINDERGARTEN THROUGH TWELFTH GRADE EDUCATION: Subject to the provisions of this policy, non-supervisory part-time employees may be eligible for time off if they are the parent or legal guardian of a Child in grades kindergarten through twelfth grade in a public, private or home-based educational program and they require time off during an Academic Year to attend Academic Activities as defined in this section of the Leave Policy. Temporary employees are not eligible for this leave program.

#### <u>Definitions applicable to this section include:</u>

Academic Activity: The term "Academic Activity" means the following meetings or conferences regarding the part-time employee's Child or any Child for whom the part-time employee is the legal guardian:

- 1. A parent-teacher conference; or
- 2. A meeting related to: special education services, as defined in § 22-20-103, C.R.S.; response to intervention, as defined in § 22-2-133 (4)(b), C.R.S.; dropout prevention; attendance; truancy; or disciplinary issues.

Academic Year: The term "Academic Year" means the period, not to exceed twelve consecutive months, allotted by a school for the completion of one grade level of study.

<u>Length of Time Off/Eligibility for Time Off:</u> This program permits full-time employees in non-supervisory positions up to 18 hours of time off in an Academic Year. Part-time non-supervisory employees may take a pro-rated amount of leave based on their full-time equivalency percentage. For example, a part-time employee who works 10 hours per week would be eligible for up to 4.5 hours. A part-time employee who works 15 hours per week would be eligible for up to 6.75 hours.

Employees must use this time off from work to attend an Academic Activity as defined in this section above.

Employees may request time off in up to three hour increments up to six hours (if eligible) in any one-month period and no more than the pro-rated amount in any Academic Year.

Employees are encouraged to make a reasonable attempt to schedule Academic Activities outside of regular work hours except in emergencies; employees are required to provide at least one calendar week advance notice to their supervisors for the need for time off.

Employees shall work with their supervisors to schedule the time off so that it is most convenient for the employee and the work team, if possible.

The City and County of Broomfield may limit the ability of a part-time employee to take parental involvement time off in cases of emergency or in other situations where the part-time employee taking time off may endanger a person's health or safety or in a situation where the absence of the part-time employee would result in a halt of service or production.

<u>Payment During Time Off:</u> Employees are not eligible for paid leave and therefore any time off taken would be unpaid.

<u>Notification Requirement:</u> The part-time employee shall request time off through his or her supervisor at least one calendar week in advance of the Academic Activity, and the supervisor may request that the part-time employee submit written verification of the Academic Activity from the school or school district. In the case of an emergency where the part-time employee cannot provide one calendar week notice in advance, the part-time employee shall provide the supervisor with notice of the need for time off as soon as possible once he or she becomes aware of the need for time off and shall provide the supervisor with written verification, if requested, upon return to work.

#### **DEFINITIONS**

This section defines certain terms used throughout this policy. The first letter of each of these words will be capitalized whenever it is used as defined below in this text.

# **Active Status**

The term "Active Status" means the Employee's performance of duties at:

- 1. the Employer's usual place of business; or
- 2. any other business location to which the Employer requires the Employee to travel.

Unless disabled on the prior workday or on the day of absence, an Employee will be considered to be in Active Status on the following days:

- 1. a Saturday, Sunday or holiday which is not a scheduled workday; or
- 2. other scheduled or unscheduled non-workday.

#### Child

The Employee's biological, adopted or foster child; a step-child; a legal ward; or a child of a person standing in the place of a parent (*in loco parentis*) who is under 18 years of age or 18 years of age and older and incapable of self-care because of a mental or physical disability.

# <u>Covered Service Member (for Servicemember Family Leave)</u>

A Spouse, Son, Daughter, Spouse or Next of Kin of the Employee who is a member of the Armed Forces including a member of the National Guard or Reserves who has a serious injury or illness incurred in the line of duty while on active duty that may render the servicemember medically unfit to perform his or her duties and for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

#### Daughter

The Employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the Employee stood *in loco parentis*.

#### Disability

The term "Disability" means a condition caused by an Injury or Sickness which causes the Employee to be absent from his or her regular duties on a regularly or reduced schedule basis.

#### **Employee**

The term "Employee" in this policy refers to 1) part-time employees working less than 20 hours per week in any one position on a year round basis; and 2) temporary employees who are hired for a limited period of time, normally not to exceed nine months in duration, or employees hired as substitutes to fill in for a specific position on an as-needed basis. Full-time employees and part-time employees working more than 20 hours per week in any one position on a regularly scheduled year round basis are not eligible for benefits under this policy.

#### **Employer**

The term "Employer" means the City and County of Broomfield, a Colorado municipal corporation and county.

#### **Health Care Provider**

The term Health Care Provider is defined in § 825.125 of the CFR and means 1) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or 2) any other person determined by the Secretary of Labor to be capable of providing health care services. Other persons include but are not limited to podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law.

# **Injury**

The term "Injury" means bodily damage other than Sickness, including all related conditions and recurrent symptoms.

## **Mental Illness**

The term "Mental Illness" means any disorder which impairs the behavior, emotional reaction or thought process of a person, regardless of medical origin.

# **Next of Kin**

The nearest blood relative other than the Covered Servicemember's Spouse, Parent, Son or Daughter according to the order set out in § 825.122(d) of the CFR.

#### **Parent**

The biological, adoptive, step or foster parent of an Employee, or an individual who stood in place of the parent when the Employee was a child (*in loco parentis*). This definition does not include parents "in-law".

#### **Personnel Merit System**

The term "Personnel Merit System" means the personnel policies and rules of the Employer as codified in the Broomfield Municipal Code, Chapter 2-14.

#### **Physician**

The term "Physician" means:

- 1. A legally qualified medical doctor who is licensed to practice medicine, to prescribe and administer drugs or to perform surgery; or
- 2. Any other duly licensed medical practitioner who is deemed by applicable state law to be the same as a legally qualified medical doctor.

The term Physician does not include a person who resides in the patient's home or who is a member of the patient's Immediate Family. The Employer shall in no way disturb the physician/patient relationship. The term "Immediate Family Member" means those individuals related to an Employee in the following manner: mother; father; stepmother; stepfather; foster mother; foster father; lawful spouse; mother-in-law; father-in-law; grandmother; grandfather;

brothers; sisters; children, to include stepchildren and foster children; or any relative living in the Employee's household.

# **Qualifying Exigencies**

The term Qualifying Exigencies is defined in § 825.126 of the CFR and includes one or more of the following: 1) short notice deployment, 2) military events and related activities, 3) childcare and school activities, 4) financial and legal requirements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities, and 8) additional activities.

#### **Serious Health Condition**

The term "Serious Health Condition" means a Sickness, Injury or Disability that involves either:

- Hospital Care Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential
  medical care facility, including any period of incapacity (i.e., inability to work, attend
  school, or perform other regular daily activities) or subsequent treatment in connection
  with such inpatient care—; or
- Continuing treatment by a health care provider, which includes:
  - A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
    - Treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within seven days and both within 30 days of the first day of incapacity); or
    - One treatment by a health care provider (i.e., an in-person visit within seven days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
  - 2. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
  - Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
  - 4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
  - Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

#### **Serious Injury or Illness**

The term Serious Injury or Illness means an injury or illness incurred by a Covered Servicemember in the line of duty on active duty that may render the Covered Servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.

### <u>Servicemember (for Qualifying Exigency Leave)</u>

A Spouse, Child or Parent of the Employee who is on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation.

# **Sickness**

The term "Sickness" means a bodily disorder, disease, illness or pregnancy. The term Sickness includes Mental Illness and Substance Abuse.

#### Son

The Employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the Employee stood *in loco parentis*.

#### **Spouse**

Spouse means a husband or wife as defined or recognized under Colorado State Law for purposes of marriage, including common-law marriage in the State of Colorado.

#### **Substance Abuse**

A condition caused by regular excessive compulsive drinking of alcohol or taking of drugs that results in a chronic disorder affecting physical health and/or personal or social functioning.

# **Total Disability**

The term "Total Disability" means a condition caused by an Injury or Sickness in which the Employee is unable to perform on a regular basis 1) the duties of his or her occupation for wage or profit; or 2) any modified duty assignment.