

**Purpose:**

The County is committed to compliance with the Family and Medical Leave Act of 1993 (the "FMLA"). The purpose of this policy is to provide employees with a basic understanding of their rights and obligations under the FMLA.

**Who is governed by this policy:**

This policy applies to all employees eligible for leave under FMLA. An employee who has been employed at the County for at least 12 months and has worked at least 1,250 hours during the 12-month period preceding the request for leave is eligible for family medical leave ("FML"). Paid absences (including Workers' Compensation, Temporary Seasonal Shutdown, Short Term Disability, and other paid or unpaid time off) prior to taking FML, are not included in the 1,250 work hours reference above.

**Policy statement:**

The County will grant eligible employees leave under the FMLA ("Family Medical Leave" or "FML") for up to 12 workweeks during any 12-month period.

**Basic Leave Entitlement:**

An eligible employee is entitled to take up to 12 weeks of job-protected FML for the following reasons:

- Because they are unable to perform their job due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

**Military Family Leave Entitlements:**

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain "qualifying exigencies." Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is:

- (1) a current 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
- (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FML to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. (Note, the FMLA definitions of "serious injury or illness" for current service members and veterans are distinct from the FMLA definition of serious health condition).

## **Employee Benefits During FML and Job Restoration After FML:**

**Health Insurance:** During an employee's FML, the County will maintain health insurance and other group health benefits on the same conditions as if the employee was working subject to applicable plan documents and law. If the employee wants benefits to continue during FML, he/she must continue to pay the share of the premiums for those benefits at the same contribution rate as if he/she were an active employee. If any portion of FML is paid, the employee's share of the benefit premiums will be paid through automatic payroll deductions. For unpaid FML, the employee will be billed and must make payments for his or her share of the premiums on a monthly basis. The County's obligations to maintain health benefits cease if an employee fails to pay his/her share of premiums for which he/she is billed.

**Accrual of Vacation, Personal and Sick Leave during FML:** Consistent with the County's policy for all types of leave, employees will not accrue vacation or other benefits while on unpaid FML.

**Holidays during FML:** Unless the holiday falls on a day covered by a previously accrued vacation, sick, personal or comp day, an employee will not be paid for the holiday.

**Job Restoration:** Most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms after FML.

**Benefits Accrued Before FML:** Use of FML will not result in the loss of any employment benefit that accrued prior to the start of the leave.

**Retirement Plans:** FML will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in the County's retirement plans.

### **Eligibility Requirements:**

Employees are eligible for FML if they have worked for the County for at least 12 months and have worked at least 1,250 hours during the 12-month period before a request for FML.

### **FML "Leave Year":**

For the purposes of this policy, the County will use a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. Available leave is determined by subtracting the number of weeks of FMLA leave taken during this 12-month "look back" period from the 12-week total allowed.

### **Use of Leave:**

An employee does not need to use FML in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the County's operations. Employees may also take leave due to "qualifying exigencies" (defined above) or "bonding leave" (leave to bond with a newborn child or newly-adopted child) on an intermittent basis.

### **Pay During FML:**

Under the FMLA, Family Medical Leave generally is unpaid. However, the County has made provisions for employees to receive pay during FML under certain circumstances, described below.

**Sick Leave:** An employee must use his/her accrued sick leave concurrently with FML.

**Vacation and Personal Leave:** An employee must use accrued vacation and personal days concurrently with FML.

**Workers Compensation "Lost Time":** FML runs concurrently with Workers' Compensation Lost Time if the basis for the Lost Time also meets the definition of a serious health condition under the FMLA.

### **How to Request Leave:**

An employee must provide 30 days advance notice to his or her supervisor of the need to take FML when the need for leave is foreseeable.

When 30 days' notice is not possible, the employee must provide notice to his or her supervisor as soon as practicable and must comply with their department's normal call-in procedures.

Employees requesting FML will also be required to complete the FML Request Form and return it to Human Resources.

Human Resources will inform employees of additional obligations, including the need for a medical certification supporting the need for FML.

Generally, when requesting FML, employees must be prepared to provide sufficient information for the County to determine if the leave is covered by the FMLA and the anticipated timing and duration of the leave. Sufficient information may include the following: whether the employee is unable to perform job functions; whether the employee's family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, whether the leave is for a reason for which the employee previously took FML; the circumstances supporting the need for military family leave.

### **The County's Responsibilities:**

The County will inform an employee requesting FML whether he or she is eligible under FMLA.

If he or she is eligible, the County will notify the employee of any additional information required as well as the employee's rights and responsibilities.

If the County determines that the leave is not FMLA-protected, it will notify the employee and provide a reason for ineligibility.

The County will also inform an employee if leave will be designated as FMLA-protected and the amount of leave counted against the employee's FML entitlement.

### **The Employee's Responsibilities:**

Consistent with the County's policy regarding all types of leave, the following conduct is strictly prohibited in relation to FMLA leave:

- Engaging in fraud, misrepresentation or providing false information to the County or any health care provider.
- Having other employment during the leave, without prior written approval from the County.
- Failure to comply with the employee's obligations under this policy.

- Failure to timely return from the leave.

Employees who engage in conduct described above will be subject to loss of benefits, denial or termination of leave, and corrective action, up to and including termination.

**The County's Commitment:**

The County will not interfere with, restrain, or deny the exercise of any right provided by the FMLA, nor will it discharge or discriminate against any individual for opposing any practice or involvement in any proceeding relating to the FMLA. The County recognizes the co-existence of state and/or local laws regarding family and medical leave. Where such laws apply and provide greater family and medical leave rights than the FMLA, the County will comply with those laws.

**Key definitions:**

**Word/Phrase      Definition**

**Serious Health Condition**      A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity (inability to work) of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regiment of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Roles and responsibilities:**

**Governed Party      Roles and Responsibilities**

**Employee**      The Employee is responsible for submitting a completed FMLA Request Form and any additional necessary documentation to their supervisor and Human Resources.

**Supervisor**      The Supervisor is responsible for setting time off request procedures, ensuring they are followed, staying in contact with the employee on leave as appropriate, and approving the time off calendar. As well as making sure Human Resources is aware of the FML to ensure all proper documentation is completed as required.

**Human Resources**      Human Resources is responsible to act as a liaison to ensure employees and Leave Administration have all necessary information.