

---

# KANSAS CITY, KANSAS POLICE

## GENERAL ORDER

ORDER NUMBER: **20.11**  
ISSUED DATE: 05/13/2014  
EFFECTIVE DATE: 05/20/2014  
RESCINDS: 20.11 Issued 05/04/2012

---

SUBJECT: Family Medical Leave Act Procedure

---

REFERENCE: CALEA Ch.22

CROSS REFERENCE: The Family Medical Leave Act 1993; U.G. Human Resources Guide, section 5.6.

CONTENTS:

**I. PURPOSE**

**II. DEFINITIONS**

**III. THE FAMILY MEDICAL LEAVE ACT**

**IV. PROCEDURE FOR PROCESSING FORMS AND SCHEDULING LEAVE UNDER FMLA**

**V. ADMINISTRATIVE COORDINATOR'S RESPONSIBILITIES**

**I. PURPOSE**

- A. To familiarize personnel with the Family Medical Leave Act and the procedures required to utilize family medical leave.

**II. DEFINITIONS**

- A. Health care provider: A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices or any other person designated by the U.S. Secretary of Labor.
- B. Parent: The biological parent of an employee or an individual who treated the employee as a son or daughter during the time the employee was under 18 years of age.
- C. 12-month period of eligibility: 12-month period of eligibility is based on a calendar year.
- D. Permitted family member: A spouse, a son, a daughter, or a parent.
- E. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves one of the following:
1. Hospital care – Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
  2. Absence plus treatment – Period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
    - a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or a provider of health care services

(e.g., physical therapist) under orders of, or on referral by, a health care provider; or

- b. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Pregnancy – Any period of incapacity due to pregnancy, or for prenatal care.
  4. Chronic conditions requiring treatments – A chronic condition which:
    - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
    - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
  5. Permanent or long term conditions requiring supervision – A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
  6. Multiple treatments (non-chronic conditions) – Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).
  7. For the purpose of section II D of this order, routine physical, eye, or dental examinations are not considered treatment, and unless complications arise, the common cold, flu earaches, upset stomachs, headaches, and routine dental problems are not ordinarily serious health conditions.
- F. Son or daughter: A biological, adopted, or foster child, a stepchild, a legal ward, or a person whom the employee treats as the employee's child.

- G. Spouse: A husband or wife; includes common law marriage.

### III. THE FAMILY MEDICAL LEAVE ACT

- A. The Unified Government will provide up to 12 weeks of job-protected leave and continuing pre-existing health coverage during a rolling 12-month period, to eligible employees for certain family and medical reasons, as required by the Family and Medical Leave Act of 1993 (FMLA).

- B. To be eligible under the Family Medical Leave Act an employee must have:

1. Worked for the Unified Government for at least twelve (12) consecutive or non-consecutive months; and
2. Worked at least 1,250 hours during the twelve (12) months preceding the start of the leave.

- C. An eligible employee is entitled to up to a total of twelve (12) work weeks of leave (paid, unpaid, or a combination of the two) during any calendar year for one or more of the following:

1. For the birth or placement of a child for adoption or foster care.
2. To care for a permitted family member with a serious health condition.
3. To take medical leave when the employee is unable to perform his or her job because of a serious health condition.
4. For a qualifying exigency involving a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation.
  - a. Qualifying exigencies may include attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post deployment reintegration briefings.

- D. Manner of Taking Leave

1. Continuous: a number of continuous days up to 12 weeks.
2. Intermittent or reduced schedule leaves:
  - a. Leaves to care for a serious health condition, of either the employee or of one of the permitted family members, may be taken on an intermittent or reduced schedule basis when medically necessary, subject to section III E 3 of this order.
  - b. The Department may temporarily transfer an employee to an alternative position with equivalent pay and benefits in order to accommodate intermittent leave or a reduced leave schedule if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job.

- c. Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis.

3. An eligible employee is entitled to up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current 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 on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

4. Employees on FMLA leave for the reason of their own serious illness, who are using paid sick leave, are prohibited from being gainfully employed by any employer other than the Department or being self-employed.

- E. Notice and Scheduling Requirements

1. An employee giving notice of the need for FMLA leave must explain the reason for the leave to allow the supervisor to determine that the leave qualifies under the Act. If the employee fails to explain the reason, leave may be denied.

2. In any case in which the necessity for leave is for birth or placement for adoption or foster care and is foreseeable based on an expected birth or placement, the employee shall provide the Department with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

3. In any case in which the necessity for leave is pursuant to the military family leave entitlements or for a serious health condition, either of the employee or to care for a permitted family member, and is foreseeable based on planned medical treatment, the employee:

- a. Shall make a reasonable effort to schedule the treatment so as not to disrupt unduly Unified Government operations, subject to the approval of the health care provider of the employee or of the permitted family member, as appropriate; and

- b. Shall provide the Unified Government with not less than 30 days notice before the date the leave is to begin of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

4. If an employee fails to give 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the Unified Government may deny leave until 30 days after the employee gives the notice.

5. When the need for leave, or its approximate timing, is not foreseeable, an employee shall give

notice to the Unified Government of the need for FMLA leave as soon as practicable. In an emergency, the employee or a designee should provide information when possible.

6. As directed by his or her supervisor, the employee on FMLA leave shall report every 30 days on his or her status and intent to return to work.
7. Each occurrence of absence due to intermittent FMLA leave must be reported as FMLA leave at the time the employee notifies the supervisor of the absence.

#### F. Certification

1. In the case of FMLA leave to care for a serious health condition of a permitted family member or for a covered service member under the military family leave entitlements, the employee must obtain and submit a certification issued by the health care provider of the family member that the employee is needed to care for such family member.
2. In the case of FMLA leave due to the employee's own serious health condition the employee must obtain and submit a certification issued by the employee's health care provider that the condition makes the employee unable to perform the essential functions of the employee's position.
3. If an employee has notified the Unified Government that his or her FMLA leave will be on an intermittent or reduced schedule basis, the certification issued by the applicable health care provider must include:
  - a. Either
    - (1) A statement that such type of leave is a medical necessity, or
    - (2) A statement that such type of leave is necessary to care for the family member or will assist in the family member's recovery; and
  - b. The expected duration and schedule of such leave.
4. The Unified Government may require the employee to obtain a second opinion from a health care provider designated by the Unified Government, at the Unified Government's expense. If opinions differ, the Unified Government may require a third certification at the Unified Government's expense. The third opinion will be final and binding.
5. The Unified Government requires recertification during the period of leave for pregnancy, chronic, or permanent/long-term conditions if:
  - a. The employee requests an extension of leave,
  - b. Circumstances described by the original certification have changed significantly, or
  - c. The Unified Government receives information that casts doubt upon the continuing validity of the original certification.
6. An employee whose FMLA leave was due to the employee's own serious health condition must submit certification from his or her health care

provider that the employee is able to perform the essential functions of his or her job. The employee will not be reinstated until such fitness for duty certification is submitted. The Fitness for Duty Certification is not required for absences while the employee is on intermittent FMLA leave.

7. If an employee fails to provide any certification required under this section within a reasonable time under the circumstances, the Unified Government may deny the leave until certification is provided or may deny continuation of the leave.
8. In the case of FMLA leave for a qualifying exigency, the employee must provide sufficient information that indicates that a family member is on active duty or called to active duty status, that the leave requested is for one of the reasons covered as a qualifying exigency, and the anticipated duration of the absence.

#### G. Relationship to Paid Leave

1. Before any unpaid FMLA leave is taken, accrued vacation leave and sick leave must be exhausted, except as provided in the next paragraph. Paid leave which is classified as FMLA leave constitutes part or all of the 12 weeks of FMLA leave to which an employee is entitled.
2. The employee at his or her option may retain vacation hours up to the amount accrued in one year and 120 hours of sick leave is such retention is permitted by governing bargaining unit agreement.
3. The employee's FMLA 12-week entitlement will run concurrently with any leave taken under Workers Compensation or other injury benefits program when the injury is one that meets the criteria for a serious health condition. In other words, Workers Compensation or its equivalent will be counted as FMLA leave.
4. Based on information provided by the employee, the Unified Government will determine whether paid leave used by an employee counts as FMLA leave and will notify the employee immediately.
5. Paid leave provided under any disability leave policy will be considered sick leave for purposes of FMLA leave substitution.
6. Whenever an employee uses paid leave, the employee is only required to comply with the requirements of the particular leave policy which governs that leave or with the terms of an applicable bargaining agreement which governs that leave and not any more stringent requirements of this order. If either the Unified Government or the employee designates leave as FMLA leave after the leave has begun, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave to the extent that the leave period qualified. Once leave is classified as FMLA leave, the employee must comply with the requirements of this order if he or she has not already done so.

#### H. Maintenance of Benefits

1. The employee who takes FMLA leave will not accrue any employment benefits except seniority

during any period of unpaid leave. Thus, no vacation or sick leave time is earned during any calendar month unless the employee is in paid status for the minimum month, as defined in 2.8 of the Human Resources Guide (The Workday) or the bargaining agreement to which an employee is subject, whichever is applicable.

2. The Unified Government will continue health coverage at the same level of contributions, and benefits as if the employee were working. If the Unified Government provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee will receive the new or changed plan or benefits to the same extent as if the employee were not on leave.
  - a. In order to maintain coverage during unpaid leave, the employee is required to pay all contributions to medical and dental insurance which would ordinarily be deducted from his or her paychecks. If premiums are raised or lowered for the group of employees of which the employee on leave is a member, while the employee is on FMLA leave, he or she will be required to pay the new premium rates.
  - b. Failure to make payments will result in the cancellation of the particular coverage. A payment which is more than 30 days late is considered to be a failure to pay.
  - c. Canceled medical and dental coverages will be reinstated upon the employee's request when the employee returns to work, on the same terms as prior to taking the leave, without any qualifying period, physical examination, or exclusion of pre-existing condition.
3. Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), the Unified Government's obligation to maintain health benefits under this policy ceases
  - a. If an when an employee informs the Unified Government of his or her intent not to return from leave; or
  - b. If the employee fails to return from leave and thereby terminates employment; or
  - c. If the employee exhausts his or her FMLA leave entitlement.
4. If the employee does not return to work after the period of leave has expired, the employee must reimburse the Unified Government for the Unified Government's share of the health care coverage premium during the period of unpaid FMLA leave, unless the reason the employee does not return to work is
  - a. The continuation, recurrence, or onset of a serious health condition, either of the employee or a permitted family member; or
  - b. Other circumstances beyond the control of the employee.
    - (1). The Unified Government may require certification from a health care provider if an employee states he or she is unable to

return to work under section III H 4 a, above.

5. Participation in the Employee Contributions Cafeteria Plan
  - a. While an employee is on paid FMLA leave, he or she is eligible to participate in the Employee Contributions Cafeteria Plan (the Plan) and may continue participation in such Plan if he or she was a member when the leave began. An employee on unpaid FMLA leave is not eligible to participate in the Plan except as provided in this section.
  - b. When the need for unpaid FMLA is foreseeable, an employee may make arrangements to prepay health care premiums for the period of unpaid leave through increased payroll deductions and may thus maintain his or her participation in the Plan.
  - c. If the employee was a member of the Plan before beginning a period of unpaid FMLA leave, upon his or her return to work, the employee will automatically be reinstated in the Plan with the same benefit elections he or she had before going on leave.
6. In order to maintain voluntary group term life insurance coverage during a period of unpaid FMLA leave, the employee must pay the premiums for such coverage, which would ordinarily be deducted from his or her paychecks. If an employee does not maintain this coverage during a period of unpaid FMLA leave, he or she may reinstate coverage upon payment of the missed premiums.
7. An employee who is unable to return to work at the end of FMLA leave should refer to rights under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).
  - I. Job Restoration
    1. Except as provided in section III I 2 (below), any eligible employee who takes FMLA leave shall be entitled, upon return from such leave:
      - a. To be restored by the Unified Government to the position of employment held when the leave began; or
      - b. To be restored to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
    2. If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to the same or another position under the FMLA.
  - J. Employees having additional questions about the FMLA procedures should contact the FMLA Compliance Officer in Human Resources.

#### IV. PROCEDURE FOR PROCESSING FORMS AND SCHEDULING LEAVE UNDER FMLA

- A. An employee is required to provide thirty (30) days of advance notice in writing to his or her supervisor that the employee needs to take leave under the FMLA for his or her serious health condition, to care for a family member's serious health condition, or for the birth, adoption, or placement of a child.
    - 1. When such advance notice is not possible or the need for leave cannot be foreseen, an employee must give notice as soon as practicable to their supervisor.
    - 2. An employee giving notice of the need for FMLA leave must explain the reason for the needed leave so as to allow the supervisor to determine that the leave qualifies under the act. If the employee fails to explain the reason, leave may be denied.
  - B. The supervisor will retrieve an FMLA packet from the Public Safety Business Office. The supervisor will then provide the employee with the FMLA packet and send a memorandum to Human Resources (cc. to the Public Safety Business Office) advising that the employee has received FMLA information. (See form memorandum attachment 1)
  - C. An employee's request for FMLA leave will be documented on forms provided in the FMLA packet.
  - D. When it is anticipated that the leave will exceed 30 days, the supervisor will advise the employee of the schedule on which the employee is to contact the supervisor during the FMLA leave to check the status and the employee's intent to return to work.
  - E. When an employee is already off work for a qualifying event and has not given notice of FMLA leave, the supervisor notifies the employee that he or she has been on FMLA leave. (See attachment 2)
    - 1. The supervisor must forward copies of the letter to Human Resources and the Public Safety Business Office.
    - 2. The employee is still responsible for filling out the necessary forms from the FMLA packet as soon as practicable.
  - F. The employee must return the Employee Notice of FMLA Leave and the FMLA Notice to Employee Acknowledgment forms to the supervisor. The supervisor will forward these forms to Human Resources, and a copy will be retained by the employee requesting FMLA leave. If the leave is anticipated to exceed 30 days, the supervisor will note the scheduled check-in date on the FMLA Notice to Employee Acknowledgment form, which is included in the FMLA packet.
  - G. The employee must return the Certification of Health Care Provider form directly to Human Resources. (This form is not necessary for leave taken for the birth or adoption of a child.)
  - H. The affected Bureau Executive Officer will meet with the FMLA Compliance Officer in Human Resources to review the certification to determine if the leave is for a qualifying event. If the event does not qualify, Human Resources will notify the employee and the Police Department. Human Resources files the certification form (separate from employee files).
    - I. While the employee is on FMLA leave, the supervisor will ensure that the employee's sign in sheet is marked with the appropriate code. (See G.O. 40.1, section VII D 2.)
    - J. Upon the employee's return to work from a leave for his or her own illness, the employee presents a completed FMLA Fitness for Duty form (Appendix A) to his or her supervisor. The supervisor sends the form to the FMLA Compliance Officer in Human Resources.
      - 1. All sworn employees will submit a completed Department Physical Fitness for Duty Release Form (Appendix B) to their Division Commander prior to their return to full duty.
- V. ADMINISTRATOR'S COORDINATORS RESPONSIBILITIES**
- K. Human Resources are responsible for keeping FMLA packets available for distribution.
  - L. Human Resources will ensure that a logbook is maintained to record when and to whom FMLA packets are presented.
    - 1. Entries will be recorded in the logbook when Human Resources receive notification from a supervisor that a packet has been presented to an employee.
    - 2. On any occasion when an FMLA packet is given to an employee by Human Resources for that employee's own use, it will be recorded in the log that the employee received the information. The employee will be advised that his or her direct supervisor still needs to fill out the memorandum advising Human Resources that an FMLA packet was presented (attachment 1).
  - M. Whenever FMLA leave becomes unpaid, the Public Safety Business Office is responsible for preparing a Personnel Action Notice indicating that the employee is on unpaid FMLA leave, which will be sent to Human Resources.