

F. FAMILY MEDICAL LEAVE ACT (FMLA)

STATEMENT OF POLICY

The Board is committed to assuring that employees' rights under the FMLA are protected and implemented in accordance with the provisions of the FMLA. **THIS POLICY IS ONLY INTENDED TO SERVE AS GENERAL GUIDANCE UNDER THE FMLA. IT IS NOT ALL INCLUSIVE AND DOES NOT SUPERSEDE ANY PROVISIONS OF THE FMLA.**

DEFINITIONS

1. An eligible employee is one who meets all the eligibility requirements of the FMLA.
2. A serious health condition is defined by the FMLA as 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.
3. A son or daughter is defined by the FMLA as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in *loco parentis* (or "in place of a parent"), who is (a) under 18 years of age; or (b) 18 years of age or older and incapable of self-care because of a mental or physical disability.
4. A usage year denotes the consecutive twelve-month period during which an eligible employee is entitled to up to twelve weeks of designated FMLA leave. The usage year is the twelve-month period measured forward from the first date an employee takes FMLA leave.

LEAVE ENTITLEMENT

The FMLA entitles eligible employees to claim up to a total of twelve (12) workweeks of paid or unpaid FMLA leave during a twelve (12) month period (usage year) for any of the following reasons:

1. the birth of a son or daughter and the care of the employee's son or daughter after birth, or the placement of a son or daughter with an employee for adoption or foster care;
2. the care of an employee's spouse, son, daughter, or parent who has a serious health condition; or

3. An FMLA declared serious health condition that makes the employee unable to perform his or her job.

ELIGIBILITY REQUIREMENTS

To be eligible for FMLA leave, an employee:

1. must have been employed for twelve months by the State of Louisiana. The twelve-month employment period required need not be continuous. If an employee has worked any part of each of 52 weeks, the twelve (12) month requirement is considered met. These 52 weeks must have been within a reasonable period of time; and
2. must have physically worked for at least 1250 hours during the twelve (12) months preceding the start of FMLA leave. All leave time used is excluded.

EMPLOYEE'S RESPONSIBILITIES

1. An eligible employee must give thirty (30) days notice of the need for extended leave that may be for an FMLA-qualified reason, or if the need for the leave is not foreseeable, as much notice as is practicable given the circumstances involved.
2. Any eligible employee desiring to take leave under the provisions of the FMLA for the birth of a son or daughter and to care for the employee's child after birth shall provide the Commission's human resources department with the following:
 - a. in the case of the mother, written documentation from a health care provider concerning the expected duration of the employee's medical incapacity caused by childbirth and verbal notification of the expected duration of any further leave for the care of the newborn child;
 - b. in the case of the father, written documentation indicating the birth of his son or daughter and verbal notification concerning the expected duration of leave for the care of the newborn child.
3. Any eligible employee desiring to take leave under the provisions of the FMLA because of the placement of a son or daughter with the employee for adoption or foster care shall provide the Commission with written documentation of this event.
4. Any eligible employee desiring to take leave under the provisions of the FMLA, either to care for a family member (spouse, child, or parent) with a serious health condition or because of the employee's own serious health condition, must provide a medical certification from a health care provider to

support the request for FMLA leave. The certification must be prepared by a health care provider on the U.S. Dept. of Labor form that may be obtained from the Commission's human resources department. This certification must be provided to the human resource department within fifteen (15) calendar days after the request for FMLA leave is submitted.

5. Employees on FMLA leave because of a serious health condition affecting the employee or a family member are expected to keep their supervisors informed on their progress and expected date of return to duty. Medical recertification from the employee's or family member's health care provider must be submitted on the U.S. Dept. of Labor form every thirty (30) days during the FMLA leave.
6. Any employee returning from FMLA leave because of his or her own serious health condition will be required to submit a return-to-work report from his or her health care provider stating that the employee can perform the essential functions of his or her job. Also, the employee may be required to undergo a physical examination by a physician selected by the Commission (at the Commission's expense) before returning to his or her job duties.
7. When FMLA leave is needed to care for a family member or the employee's own illness and is for a planned medical treatment, the employee, in consultation with his or her supervisor, shall attempt to schedule treatment so as not to unduly disrupt the operations of the agency.

ADMINISTRATIVE GUIDELINES

1. The Commission shall provide an employee with written notification of his or her rights and obligations under the FMLA as soon as possible after an employee either requests a period of extended leave for a FMLA-qualifying condition or begins an unexpected period of extended leave for a FMLA-qualifying condition.
2. Department managers or supervisors shall notify the human resource office when any of their employees' request, or use leave which conforms with the FMLA leave entitlement and FMLA-leave eligibility requirements.
3. The Commission shall place an employee on FMLA leave only after a written request is submitted by the employee; or when the agency has knowledge of the need for extended leave which conforms with FMLA leave entitlement;
4. The Commission will give the employee prior written notification that his or her leave has been designated as FMLA leave.

5. An FMLA qualified absence will be designated as unpaid FMLA leave and counted against an eligible employee's 12 week FMLA entitlement only after the employee:
 - a. has exhausted his or her approved sick leave for the employee's own illness or injury; or
 - b. has exhausted his or her approved annual leave for other FMLA – qualified reasons.
6. Sick leave may be designated as employee requested paid FMLA leave only for an employee's own illness or injury (not to care for a family member.)
7. If paid sick leave is exhausted during a period of employee-requested paid FMLA leave for an employee's own illness or injury, any accrued paid annual leave may be requested and, if approved, then be applied during that paid FMLA-leave period.
8. The Commission shall designate those periods of leave (extended or intermittent) as unpaid FMLA leave for an eligible employee when the employee exhausts all applicable leave balances. (Enforced annual leave may be imposed for a FMLA-qualified condition.)
9. Paid or unpaid leave designated as FMLA leave shall be recorded by the human resource department.
10. When an employee's twelve weeks of FMLA leave are exhausted, the employee will not be eligible for twelve more weeks of FMLA leave until a new usage year begins.
11. Group health insurance coverage including family coverage and life insurance shall be maintained during the period of FMLA entitlement on the same terms as if the employee continued to work.
12. The Commission may retroactively designate a period of leave-without-pay absence as unpaid FMLA leave after the absence ends:
 - a. if the Commission had preliminarily designated the leave-without-pay period as unpaid FMLA leave but was awaiting medical certification, or
 - b. if the Commission learns that the leave is FMLA-qualifying after the leave is completed, but only if it does so within two business days after the employee returns to work.

13. An employee may retroactively assert FMLA protection by notifying the Commission within two business days after returning from an FMLA qualifying absence. If done after two business days, the employee cannot assert FMLA protection retroactively.
14. All medical information submitted as certification for FMLA leave shall remain confidential.
15. The “key employee” provision of the FMLA shall not be applied by the Commission. (A “key employee” is defined as someone in the highest paid ten percent of the employer’s work force, and the provision allows an employer to deny job restoration to a “key employee” after FMLA leave.)