

FAMILY AND MEDICAL LEAVE #155

1.0 – PURPOSE: To comply with the Family and Medical Leave Act (FMLA) by ensuring eligible employees are provided job-protected leave for qualifying events and restored to the same or equivalent position upon return to work.

2.0 – DEFINITIONS: The following definitions are applicable to this policy:

Covered Family Member – An employee may receive Family and Medical Leave (FML) to provide care for a family member, as follows:

- A. An employee's spouse, or parent or child under the age of eighteen (18) who has a serious health condition.
- B. The employee's son or daughter who is eighteen (18) or more years old and who is incapable of self-care due to mental or physical disability that limits one or more "major life activities" as defined under the Americans with Disabilities Act.
- C. For military exigency leave if the employee is the spouse, parent, son or daughter of a military service member in the Regular Armed Forces, National Guard or Armed Forces Reserves on active duty or on notice of an impending call to active duty in support of a contingency operation deployed to a foreign country.
- D. For military caregiver, the employee is the spouse, parent, son, daughter or "next-of-kin" of a covered military service member with a serious illness or injury received in the line of duty while on active duty, including a covered veteran who was discharged other than dishonorably at any time during the five-year period prior to the first day of FML.

Eligible Employee – An employee of Davis County who has met both of the following requirements:

- A. The employee must have worked for Davis County for at least 12 months. The 12 months need not be consecutive. Separate periods of employment will be counted if the employee's break in service does not exceed 7 years. However, separate periods of employment will be counted if the break in service exceeds 7 years due to military service.
- B. The employee must have worked at least 1,250 hours during the 12 month period immediately before the requested leave date.

FML Year – The FML year will begin on the first day of FML and continue for 12 months.

FML Year – Military Caregiver Leave - The FMLA provides military caregiver leave for up to 26 weeks during a single 12 month period after the requested leave date. The single 12 month period during which leave can be taken begins on the first date of covered military caregiver leave and ends 12 months later, regardless of the date used to determine the employee's 12 weeks of leave entitlement for other FMLA qualifying reasons.

Qualifying Events – Events which qualify an employee for FMLA leave are include, but may not be limited to, the following:

- A. The birth of a child, or in order to care for and/or bond with that child, within one year of birth.
- B. The placement of a child for adoption or foster care, or to care for and/or bond with the newly placed child, within 12 months of the event.
- C. The employee’s serious health condition that makes the employee unable to perform the essential functions of his/her position.
- D. To care for a covered family member with a serious health condition.
- E. Qualifying exigency while the employee’s family member is on covered active duty or call to covered active duty status.
- F. To care for a covered service member with a serious injury or illness (military caregiver leave).

3.0 – EMPLOYEE RESPONSIBILITIES: An employee wishing to avail her/himself of FMLA job protections must request the protected leave, as follows:

- A. The employee is required to notify Davis County if leave is needed for a potential qualifying FML event. Forms to request FML are available on the Davis County Human Resources (HR) intranet site at Human Resources/Forms/Family and Medical Leave. FML request forms shall be submitted to HR and must include the reason for the leave and the anticipated dates the leave will begin and end. In most instances, a completed health care provider certification form must also be submitted. Once HR has received the employee’s request for FML, health care provider forms, along with other necessary forms, will be provided to the employee. The information of the health care provider must be submitted in a timely manner and before FML can be approved. Contact your HR Generalist for questions.
- B. If the leave is foreseeable, the employee must provide at least 30 days’ notice. If the leave is not foreseeable, the employee or the employee’s spokesperson must give notice as soon as possible.
- C. While the employee is on continuous FML, the employee must contact his/her supervisor at least every 30 days.
- D. Davis County may designate leave as FML when it has enough information to confirm an employee’s absence is for a qualifying event. If supervisors become aware of an employee’s need for FML, the supervisor should contact HR.
- E. Family and Medical Leave shall not be granted in situations where employees have indicated they do not intend to return to work following the leave.

3.1 – EMPLOYER RESPONSIBILITIES: A supervisor who becomes aware of an employee’s need for FML shall do the following:

- A. Ensure the employee knows how to find FML request forms on the Davis County intranet. Any questions about the process should be referred to HR.
- B. If supervisors become aware of an employee’s need for FML OR an employee’s absence for a qualifying reason, s/he has the responsibility to notify HR.

- C. In some instances, the need for FML is both foreseeable and may be rescheduled without harm to the employee. If a supervisor believes an employee's non-emergent leave request will constitute a material operational problem, the supervisor should consult with HR regarding potential options.
- D. Davis County shall administer FML in accordance with federal regulations and the FMLA.

4.0 – FML ENTITLEMENT: With the exception of military caregiver leave, FML shall not exceed twelve (12) weeks during an FML year.

4.1 – FML ENTITLEMENT – MILITARY CAREGIVER LEAVE: The combined total of military caregiver leave and all other FML shall not exceed twenty-six (26) weeks for any employee during an FML year.

5.0 – USE OF PAID LEAVE: Employees must record all absences for approved FML on County timesheets. In general, the use of paid leave (compensatory, sick, "specials" and vacation) will run concurrently with approved job protection leave. Sick leave accruals will generally be used before vacation leave accruals. Employees may request in writing to use any accumulated compensatory time (comp time) or to use their vacation before sick leave.

FLSA exempt employees, with no leave accruals, may be reduced in pay while on Family and Medical leave without affecting FLSA status.

7.0 – CERTIFICATION: As noted above, in most instances the County will require medical certification(s) to support a request for leave. If the certification is not received within the requested time, the beginning of leave may be delayed or the leave may be denied.

8.0 – INTERMITTENT LEAVE: As outlined by the health care provider, FML may be taken intermittently or continuously based on the need for any approved FML qualifying event. When the need for intermittent or reduced schedule FML is foreseeable, the employee must make reasonable attempts to arrange the schedule of the leave so as not to unduly disrupt the County's operations.

Employees using intermittent leave must follow established call-in or notification procedures for their work group. An employee taking intermittent FML may be required to transfer temporarily to an available alternative position for which the employee is qualified. FML for birth of a child, adoption or placement of a child may be used intermittently with approval from the employee's supervisor.

9.0 – BENEFITS WHILE ON UNPAID FML: The County will maintain an employee's health, dental, vision and life insurance coverage at current participation levels during leave. The employee will be responsible for the employee's share of such benefits and must pay the premium as instructed. Employees who fail to pay a premium within thirty (30) days may have their benefits terminated. Employees failing to return to work after FML may be required to repay the County for all insurance premium amounts paid by the County during the unpaid leave

period. The County may deduct any such premium amounts from the employee's final compensation.

10.0 – RETURNING FROM FML:

- A. If the FML leave is for the employee's own serious health condition, the employee will be required to submit a release to return to work notice from their medical provider at the time she or he returns to work or reinstated. Failure to provide a release to work note may delay the employee's return to work until the release form is provided.
- B. Upon return from FML, the employee will return to the former position or an equivalent position in terms of pay, benefits and working conditions. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.
- C. The County may take any personnel action/decision while the employee is on FML which would have occurred if the employee had continued to work. Examples of personnel actions include, but are not limited to the following: written warning, discipline or reduction-in-force. Depending on the circumstances, a supervisor may elect to postpone the personnel action/decision until the employee returns from FML.
- D. The employee is considered to have returned to work following FML if she or he returns for at least 30 calendar days.