



Alexandria Police Department

Directive 4.3



FAMILY AND MEDICAL LEAVE ACT

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CONTENTS

- 4.3.01 POLICY AND PURPOSE
- 4.3.02 AUTHORITY
- 4.3.03 DEFINITIONS
- 4.3.04 RESPONSIBILITIES
- 4.3.05 PROCEDURES

4.3.01 POLICY AND PURPOSE

The policy of this Department is to comply with the Family and Medical Leave Act (FMLA) of 1993, which entitles eligible full-time and eligible part-time employees to take unpaid, job protected leave up to 12 workweeks in any 12 months for specified family and medical reasons; and up to 26 workweeks in any 12 months to care for a covered service member with a serious illness or injury, employees who are unable to perform their job duties because of a serious health condition; the birth of a child or placement of a child with the employee for adoption of foster care; to care for a family member with a serious health condition; or for any qualifying exigency arising out of the fact that a spouse, son, daughter or parent is a military member on covered active duty or call to covered active duty service may be eligible for FMLA leave.

[22.2.1.e]

The purpose of this directive is to establish a mandatory procedure for the administration of FMLA leave, which will aid in compliance with this federal law. The purpose of FMLA is to protect jobs during qualifying absences with the continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

4.3.02 AUTHORITY

The authority for this directive is the Family and Medical Leave Act (FMLA) of 1993, the City's Administrative Regulation 6-18, Attendance and Leave, Section XI, sub-sections A through I; and the U.S. Department of Labor, Regulation 29 C.F.R.825.100.

4.3.03 DEFINITIONS

12 Month Period - The 12-month period for FMLA leave shall begin on the first day an employee uses any FMLA leave and shall run for 12 months from that date. FMLA leave is not cumulative and unused FMLA leave cannot be carried over to a future 12-month period.

Chronic Serious Health Condition – A condition that:

1. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant acting under the direct supervision of the health care provider;
2. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
3. May cause episodic rather than a continuous period of incapacity (e.g. asthma, diabetes, and epilepsy).

Eligible Employee – Regular full-time and regular part-time employees (scheduled at least 20 hours per week) who have been employed by the City for more than 12 months (whether or not continuously) and who have worked at least 1,040 hours during the previous 12-month period. Leave is prorated for part-time employees based on the number of hours worked on average during the prior 12 months.

FMLA Packet – A packet of information containing: The Employees Rights under FMLA; City of Alexandria FMLA Leave Notification form; and the appropriate City of Alexandria Certification of Health Care Provider form.

Health Care Provider - A health care provider is a doctor of medicine or any other person determined under the federal FMLA regulations to be capable of providing health care services.

Immediate Family Member – For the purposes of this directive: an employee's spouse, parent, child, and any person who is "in loco parentis" to the employee. A child of the employee is defined as a biological, adopted or foster child, step child, legal ward, or a child of a person standing in "loco parentis" (having day-to-day responsibilities to care for and financially support the child); qualifying children are under 18 years of age, or, if over 18 years of age, are incapable of self-care because of a mental or physical disability.

Intermittent Leave - If necessary, FMLA leave may be taken intermittently or together with a reduced work schedule under the following circumstances:

1. Employees may take FMLA leave intermittently or on a reduced work schedule for a serious health condition or the serious health condition of an immediate family member of the employee, if medically necessary.
2. Employees may take FMLA leave intermittently or on a reduced work schedule for the birth, adoption or foster-care placement of a child only with the prior approval of the Chief of Police.
3. Employees approved for FMLA leave intermittently or on a reduced work schedule must propose a schedule of their anticipated work hours, in writing, at least 30 calendar days before the first day of FMLA leave whenever practicable.
4. Employees approved for FMLA leave intermittently or on a reduced work schedule, may be transferred temporarily to an available alternative position (if available) upon approval by the Chief of Police with equivalent pay and benefits during the period of FMLA leave.

Qualifying Event – Bona fide circumstances for taking leave under FMLA include:

1. The birth and care of the employee's child within one year of birth; related complications associated with pregnancy (i.e., episodes of severe morning sickness or prenatal care); placement of a child with the employee for adoption, or foster care within one year of placement (i.e., to attend counseling sessions, appear in court, consult with an attorney, or travel to another country to complete an adoption before the actual date of placement); or
2. Care of the employee's spouse, child, or parent, who has a serious health condition; or
3. A serious health condition that makes the employee unable to perform the essential functions of the job (where the health care provider finds the employee unable to work at all, or is unable to perform any one of the essential functions of the position); or
4. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status (may include making alternative child care arrangements for a child of the military member when deployment of the military member necessitates a change in the existing child care arrangement; attending certain military ceremonies; making financial or legal arrangements to address the military member's absence, etc.)

Reduced Work Schedule – One that reduces an employee's usual number of working hours per work week, or hours per work day, due to the FMLA leave which is being taken by the employee.

Serious Health Condition – An illness, injury, impairment, or physical or mental condition that involves one or more of the following:

- A. Inpatient care in a hospital (i.e., an overnight stay), hospice or residential medical care facility, including:
1. Any period of incapacity (the inability of an employee to perform work of any kind); or
 2. Any subsequent treatment related to such inpatient care.
- B. Continuing treatment by a health care provider, including:
1. A period of incapacity lasting more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves either:
 - a. Treatment two (2) or more times by a health care provider (or a nurse or physician's assistant acting under the health care provider's direct supervision) or by a provider of health care services (e.g. physical therapist) pursuant to a referral by the 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 a health care provider; (ex. pneumonia, surgery, broken/fractured bones)
 2. Any period of incapacity due to pregnancy or prenatal care (ex. morning sickness or doctor ordered bed rest);
 3. Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition (ex. asthma, diabetes);
 4. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, severe stroke or the terminal stages of a disease); or
 5. Any period of absence or incapacity to receive multiple treatments (including any period of recovery from the treatments) by a health care provider, or a provider of health care services acting under orders of, or a 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 (3) consecutive calendar days in the absence of medical care or treatment, such as cancer (chemotherapy, radiation therapy) or kidney disease (dialysis).
- C. Minor illnesses or injuries (examples: colds, muscle strain), routine medical procedures, appointments or cosmetic treatments do not qualify for FMLA leave.
- D. Employees with questions about what circumstances are covered under FMLA are encouraged to consult with Personnel and Training (P&T) or the City's Human Resources Department.

Substitution of Paid Leave – The use of accrued paid leave, such as sick or annual leave to cover some or all of the FMLA leave period (runs concurrently). Employees must comply with the Department's normal paid leave policies and

provide enough information for the Department to reasonably determine whether the FMLA may apply to the leave request.

4.3.04 RESPONSIBILITIES

A. Employees:

1. If the need for FMLA leave is foreseeable (such as for an expected birth or planned medical treatment for a serious health condition), the employee must give the supervisor advance notice of at least 30 calendar days when requesting FMLA leave.
 - a. If the employee is unable to give advance notice due to uncertainty as to when the leave will need to begin, he or she must inform the supervisor as soon as possible.
 - b. When it is not possible to give 30 days advance notice, the employee should provide at least verbal notification to the supervisor within two (2) business days of the date when the need for FMLA leave becomes known to the employee. The notice must make the supervisor aware that the employee needs leave that may qualify as FMLA leave, and must state the anticipated timing and duration of the leave.
2. Complete a FMLA Leave Notification Form (F-PE-0001): Although an employee is not required to use the words "FMLA" for leave to be qualifying, he or she should state the reason for the leave (e.g. for an expected birth or adoption) so that the Department can determine whether it qualifies for FMLA leave.
3. Obtain and complete a FMLA Packet: If the employee is requesting leave due to a serious health condition, the "City of Alexandria Certification of Health Care Provider" form should be completed within 15 calendar days of the request for leave, if practical, or as soon as possible. Employees must return the completed FMLA packet to P&T (not to be included in the employee's squad file).
4. Employees requesting leave for the adoption or foster care placement of a child into the employee's home must provide an acceptable statement from the agency or authority responsible for the adoption or placement.
5. In circumstances where the employee took leave due to a personal, serious health condition, employees must, before they return to full duty status, provide to their supervisor a completed Return to Work statement and Medical Essential Functions form from their treating physician stating that they can perform all of the essential functions of their job.
 - a. If the employee is unable to perform all of the essential functions but is ready to return to work, he or she must have a completed Return to Work statement and Medical Essential Functions form from the treating physician indicating specific work restrictions and the anticipated duration of those restrictions in order to be considered for approval to work a

temporary modified duty assignment. The employee would then be responsible for completing the steps required for requesting a “restricted duty” assignment. Employees will not be considered for any restricted duty assignment until all relevant paperwork has been received by the Personnel and Training Division.

- b. The employee shall complete a memorandum to the Chief through his/her chain of command asking to be considered for a temporary restricted duty assignment. The memorandum shall include a copy of the appropriate medical paperwork to include what work restrictions are in place, and provide an estimated time that the employee will be on restricted duty.

B. Supervisors:

1. Determine if the employee’s leave request may be considered a FMLA qualifying event:
 - a. If it is not a potentially FMLA qualifying event, the supervisor will use his or her discretion in approving the leave under normal leave policies.
 - b. If it is a potentially FMLA qualifying event, provide the employee the appropriate FMLA packet to include the Employee Rights and Responsibilities page (contained as part of the FMLA Notification documentation).
 - c. If the employee is unable to obtain the FMLA packet, the supervisor will ensure the employee receives the packet, if necessary by mail or in some cases hand delivered to the employee, if practical.
2. Promptly notify the Personnel and Training Division in writing of the employee’s potential need to use leave for a FMLA qualifying reason. Include the date the employee was provided the FMLA packet and by whom, the reason for the leave being requested (generically), the dates that the employee anticipates needing to be out, and the first date of leave used/to be used as it relates to the FMLA qualifying reason.
3. Ensure completion of the FMLA notification and medical certification forms and send the completed forms to P&T. No copies of ANY medical paperwork should be maintained in the employees unit or squad files.
4. If applicable/approved, promptly notify the employee when their requested leave is designated as FMLA leave by writing “FMLA” on the leave slip in the “Reason” section AND by checking the FMLA box at the bottom of the leave slip. (Note: Comp leave used (CTU) does NOT count toward the employee’s 12-week entitlement for FMLA purposes.)
5. Monitor the leave balances of the employee to ensure a LWOP memo is completed, if necessary, in advance of the use of LWOP hours.

6. Periodically communicate with employees who are on FMLA leave and advise P&T of the employee's status, especially when the employee is nearing the time to return to work.
7. In circumstances where the employee took leave due to a personal, serious health condition, ensure the Return to Work Statement and Medical Essential Functions forms are provided when the employee is placed in a restricted duty status and/or when returned to full duty by the physician, prior to the employee returning to work. Employees placed in a restricted duty status per a treating physician will be required to follow Departmental policy when requesting a temporary restricted duty assignment.

C. Personnel and Training Division Chief will:

1. Review the packet to ensure it is complete.
2. Recommend to the Human Resources Department (through the Chief of Police or designee) whether or not the employee's request should be approved.
3. Forward all FMLA packets, including medical statements and Personnel Action Forms (PAFs), to the City's Human Resources Department.
4. Maintain records of FMLA leave, including tracking the number of hours used.
5. Obtain and file the medical certification releasing the employee back to work.
6. Document the date the employee returns to work.

4.3.05 PROCEDURES

- A. An absence that qualifies for FMLA leave will be charged to sick leave, disability leave, or annual leave.
 1. If compensatory time is used during an FMLA absence, it does not count against an employee's total 12-week entitlement.
 2. If all accruals are exhausted, the employee requesting leave under FMLA may request Leave Without Pay status, Sick Leave Bank hours, or leave donations. See Police Directive 4.2, Attendance and Leave, for further information.
- B. Human Resources will notify the employee and P&T in writing whether or not the leave is approved as FMLA qualifying. If approved, information on payment of benefits, use of leave, requirements for use of intermittent leave (See Administrative Regulation 6-18, XI, and A.5), additional certification requirements, and any other requirements will be provided.
- C. Health insurance benefits will be continued under the same terms and conditions as if the employee were not on leave.
- D. While on full-time FMLA leave, employees are not eligible nor can they be required to work overtime assignments, special events, special details, standby duty, call-

back assignments or any other type of work duty assignments, including secondary employment, as defined in Police Directive 4.17, Secondary Employment. For those employees working intermittently or on a reduced work schedule, the Chief and Human Resources Director must expressly authorize any premium pay assignment.

E. Returning to Work Following FMLA Leave

1. Upon initiating FMLA leave, employees must notify their supervisors of their intended return-to-work date. Employees may request to alter this date during the course of the leave period.
2. An employee who intentionally furnishes incorrect information in order to obtain FMLA leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions and will be subject to appropriate disciplinary action, up to and including termination.
3. Employees returning from a period of FMLA leave for a serious personal illness or injury will be required, prior to returning to work, to provide a completed Return to Work statement and Medical Essential Functions form from their treating physician stating that they can perform the all of the essential functions of their jobs.
4. If an employee on FMLA leave informs the Department that he/she does not intend to return to work, the employment relationship shall be deemed terminated and the employee's FMLA entitlement to reinstatement, continued FMLA leave and City-funded health and life insurance benefits shall immediately cease.

F. During periods of FMLA leave in which an employee is in a leave without pay status, the employee does not accrue annual or sick leave.

G. In the event a provision of the directive contradicts the federal law, the federal law will apply.

By Authority Of:

Earl L. Cook
Chief of Police