

	KANSAS CITY, MO POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	PERSONNEL POLICY	05-25-2016	05-25-2016	746-5
SUBJECT			AMENDS	
Policy Series 700: Administration of Leave 746 - Family and Medical Leave				
REFERENCE		RESCINDS		
P.I.: Firearms Procedure PPBM: Sick Leave; Leave Without Pay; Limited Duty Title 10 U.S.C., Title 29 U.S.C. 2611(18)(B), Title 29 C.F.R. 825.207 Family and Medical Leave Act, 1993, Pregnancy Discrimination Act		PPBM 746-4		

I. INTRODUCTION

- A. This written directive provides guidelines for the use of and administration of Family and Medical Leave in compliance with the Family and Medical Leave Act (FMLA) of 1993.
- B. FMLA may be used for the member's own serious health condition, for the birth or adoption of a child, or for the care of a child, spouse, domestic partner, or parent who has a serious health condition. FMLA may be used to fulfill a member's family obligations related to military leave or to care for a military covered service member.

II. TERMINOLOGY

- *A. **Accrued Paid Leave** - Compensatory (O) time, Extra days (E), Holidays (H), Personal days (Y), Sick days (S, SF, FS), Quality days (Q), and Vacation days (V).
- B. **Child** – A biological child, adopted child, foster child, stepchild, or legal ward or a child of a person standing in Loco Parentis, who is either under the age of 18 or 18 or older and incapable of self-care due to a physical or mental disability.
- C. **Contingency Operation** – A military operation that:
 1. Is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or,
 2. Results in the call or order to, or retention on, active duty of members of the uniformed services as defined by Title 10 of the United States Code (USC), or any other provision of law during a war or during a national emergency declared by the President or Congress.

D. **Covered Active Duty/Call to Covered Active Duty Status -**

1. In the case of a member of the Regular Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country and;
2. In the case of a member of the Reserve components of the Armed Forces, duty during the deployment of the members with the Armed Forces to a foreign country under a Federal Call or order to active duty in support of a contingency operation authorizing ordering.
 - a. To active duty retired members of the Regular Armed Forces and members of the retired Reserve who retired after completing at least 20 years of active service.
 - b. All reserve component members to active duty in the case of war or national emergency.
 - c. Any unit or unassigned member of the Ready Reserve to active duty.
 - d. Any unit or unassigned member of the Selected Reserve, and certain members of the Individual Ready Reserve to active duty.
 - e. The suspension of promotion, retirement or separation rules of certain Reserve components.
 - f. Calling the National Guard into Federal service in certain circumstances.
 - g. Calling the National Guard and state military into Federal service in the case of insurrections and national emergencies.
 - h. Any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.

- E. **Covered Service Member** – An active member of the military who has a serious injury or illness incurred in the line of duty. This includes veterans who are undergoing medical treatment, recuperation, or therapy for a serious injury or illness that occurred any time during the five (5) years preceding the date of treatment, recuperation, or therapy. The serious injury or illness must be service-related or the aggravation of a previously incurred injury or illness in the line of duty.

- F. **Domestic Partner** – Two adults who share the same principal residence and are jointly responsible for the basic necessities of life; i.e., the cost of basic food, shelter, and any other expenses. The individuals do not need to contribute equally to the cost of the expenses, so long as they are both responsible for the cost. Members must register with the Employee Benefits Section (EBS) when requesting FMLA leave.
- G. **Eligible Member** – A member that has been employed for a total of twelve (12) months and has worked at least 1,250 hours over the previous twelve (12) months or has been on active duty during the last twelve (12) months.
- H. **Incapacity** – Inability to work, attend school or perform other regular daily activities due to a serious health condition, treatment therefore, or recovery therefrom.
- I. **Inpatient** – An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care.
- J. **Loco Parentis** – Those with day-to-day responsibilities to care for and financially support a child, or, in the case of a member, who had such responsibility for the member when the member was a child. A biological or legal relationship is not necessary.
- K. **Parent** – A biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the member when the member was a child.
- L. **Qualifying Exigency** – Any non-medical activity of a member's spouse, child, domestic partner, or parent (the covered service member) on active duty or called to active duty status.
- M. **Serious Health Condition**
 - 1. An illness, injury, impairment, physical and/or mental condition that involves:
 - a. **Continuing Treatment:**
 - (1) An incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or other residential medical facility.
 - (2) An incapacity requiring an absence from work for more than three days that also involves continuous treatment by, or under the supervision of a health care provider.

- (3) Continuous treatments by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable, or so serious that, if not treated, would likely result in incapacity for more than three days; or ongoing prenatal care.
- b. **Chronic Condition** – Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic health condition is one which:
 - (1) Requires periodic visits (at least twice a year) for treatment by a health care provider or nurse under direct supervision of a health care provider.
 - (2) May continue over an extended period of time (including recurring episodes of a single underlying condition).
 - (3) May cause occasional incapacity rather than a continuing period of incapacity; e.g., asthma, diabetes.
 - (4) Has permanent or long term conditions. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider, under orders of a provider of health care services, or on referral by a health care provider.
2. A qualifying injury or illness for a veteran as defined by Title 29 U.S.C. 2611(18)(B):
 - a. An injury or illness that was incurred by the member:
 - (1) in line of duty on active duty in the Armed Forces, or
 - (2) existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces.
 - b. and that manifested before or after the member becomes a veteran.

*N. **Spouse** – An individual who lawfully enters into a marriage under any state law or outside any State that recognizes such marriage.

III. POLICY

A. Leave Entitlement

1. All eligible members will be granted FMLA leave with no interruption of benefits, job position status, or anniversary date.
2. Twelve (12) weeks (480) hours of FMLA leave per calendar year will be granted to eligible members for the following circumstances:
 - a. Pregnancy, prenatal care, birth of a child, care for and bonding with the member's child after birth, or for the care and bonding with the member's child or placement for adoption.
 - (1) The Pregnancy Discrimination Act (PDA) mandates that if a member is temporarily unable to perform her job due to pregnancy, she must be treated the same as any other temporarily disabled member.
 - (2) The following applies equally to male and female members; a father may take twelve (12) weeks leave as well as a mother may take twelve (12) weeks leave.
 - (a) Care for and bonding with the member's child after birth. This leave shall expire at the end of the twelve (12) month period beginning on the date of such birth.
 - (b) Care for and bonding with the member's child or placement for adoption or foster care. This leave may also be taken before placement of the child, e.g., to meet with an attorney, pre-placement obligations. This leave shall expire at the end of the twelve (12) month period beginning on the date of such placement.
 - b. To care for the member's child, spouse, domestic partner, or parent who has a serious health condition.
 - c. Serious health condition of a member causing the member to be unable to perform the essential functions of their job.

B. Military Family Leave Entitlement

1. Qualifying Exigency Leave – Twelve (12) weeks (480 hours) of FMLA leave per calendar year may be taken when the eligible member's child, spouse, domestic partner, or parent on covered active duty or call to covered active duty status in the military in support of a contingency operation. Qualifying exigencies may include:

- a. Short-notice deployment – To address any issue that arises from the fact that a covered military member is notified of an impending call or an order to active duty in support of a contingency operation. (Less than 7 days).
 - b. Military events and related activities; e.g., official ceremonies, family support or assistance programs, information briefings sponsored or promoted by the military.
 - c. Child or parent care and school activities; i.e., arrange for alternative child care, provide child care on an urgent or immediate basis, enroll a child in or transfer to a new school or daycare, attend meetings with school or daycare staff.
 - d. Financial and legal arrangements; e.g., preparing and executing financial and health care powers of attorney, transferring bank account signature authority.
 - e. Non-medical counseling for the member, covered service member, or child of the covered service member.
 - f. Recuperation of up to fifteen (15) days each time the covered service member is given short-term, temporary rest and recuperation leave by the military during the period of deployment.
 - g. Post-deployment activities of ninety (90) days following termination of the military member's active duty; e.g., arrival ceremonies, reintegration briefings, or issues arising from death of covered service members (funeral arrangements, etc.).
 - h. Any other event that the member and the Department agree is a qualifying exigency.
2. Military Caregiver Leave – Twenty-six (26) weeks (1,040) hours of FMLA leave in a single twelve (12) month period will be granted to eligible members to care for a covered service member.
- a. The “single twelve (12) month period” for Military Caregiver Leave begins on the first day the member takes leave for this reason and ends twelve (12) months later (calendar year) regardless of the twelve (12) month period established for other types of FMLA leave.
 - b. Any FMLA leave taken prior for all other circumstances than Military Caregiver leave will be deducted from the total twenty-six (26) weeks (1,040 hours) available.
 - c. Leave will be granted to care for a covered service member who:
 - (1) Is on the temporary military disability retired list;

- (2) Is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that occurred any time during the five (5) years preceding the date of treatment; i.e., caregiver would be able to take leave to care for a veteran for up to five (5) years after the covered service member leaves the military service.
- (3) Suffers from aggravation of existing or preexisting injuries incurred in the line of duty while on active duty.

C. Use of Leave

1. FMLA leave may be taken on an intermittent or reduced schedule. The minimum amount of FMLA leave a member may request is one hour.
 - a. One-hour increments of accrued paid leave (except holidays which must be taken in eight-hour or ten-hour increments depending upon assignment) and leave without pay may be taken.
 - b. Intermittent leave taken is counted against the total twelve (12) or twenty-six (26) week (480 or 1,040 hours) period allowed.
2. Intermittent leave for the purposes of bonding with, the birth of, or the placement of a child may not be taken.
3. In the instance of intermittent leave or leave on a reduced schedule that is foreseeable based on planned medical treatment, the Department may transfer the member to an equivalent position to better accommodate recurring periods of leave.
- *4. A member will use accrued paid leave while taking FMLA leave (sick leave may be used before other exception time). Leave without pay will be granted when all accrued paid leave has been exhausted. Members should refer to the current written directive entitled, "Leave Without Pay."
5. While a member is on FMLA leave, all provisions of sick leave and leave without pay will apply. Members should refer to the current written directive entitled, "Sick Leave."
6. Supervisors/commanders shall ensure proper timekeeping entries are made.

- D. Members are restricted from checking or responding to department emails as well as reviewing department written directives as notified through the computer system.

IV. ADMINISTRATIVE GUIDELINES

- A. When the need for FMLA leave is unforeseeable – an immediate need:
1. The member will contact and notify their supervisor to obtain verbal authorization as soon as practical.
 2. Without delay, the member's supervisor will:
 - a. Complete the Application For Leave, Form 1 P.D. (which is provided in electronic form or paper form) providing sufficient information to establish qualifying reason(s) for the FMLA leave.
 - (1) The amount of accrued paid leave and leave without pay (if applicable) should be designated if ascertainable.
 - (2) FMLA leave may be delayed if this form is not filled out completely.
 - b. Forward the Form 1 P.D. via email to fmla@kcpd.org unless the member does not have access to a computer; in which case, the paper form will be forwarded to EBS via Interdepartment mail.
 - c. Inform the requesting member:
 - (1) To obtain the appropriate Certification Form, Form 162 (A-D) P.D. (Certification Form). These forms are available in electronic and paper form. Refer to Section IV, C, of this written directive for the listing of Certification Forms. If necessary, due to situational circumstances, the supervisor should forward the appropriate Certification Form to the requesting member for completion and submission to the EBS within fifteen (15) calendar days.
 - (2) If the member fails to provide the appropriate Certification Form to EBS within fifteen (15) calendar days of the original request, EBS will not approve the request for FMLA leave; therefore, Personnel Records Section (PRS) will be notified to change timekeeping entries appropriately.
 - (3) If after the fifteen (15) calendar days, the appropriate Certification Form is received and approved, EBS will request PRS to reverse the previously requested timekeeping changes.
 - d. Ensure appropriate timekeeping entries are made.

- B. When the need for FMLA leave is foreseeable – known at least thirty (30) days in advance:
1. The member will:
 - a. Complete the Application for Leave, Form 1 P.D. (electronic form is preferred), providing sufficient information to establish qualifying reason(s) for the FMLA leave.
 - (1) The amount of accrued paid leave and leave without pay (if applicable) should be designated if ascertainable.
 - (2) FMLA leave may be delayed if this form is not filled out completely.
 - b. Forward the form via e-mail to fmla@kcpd.org unless the member does not have access to a computer; in which case, the member will forward the paper form to EBS via Interdepartment mail.
 - c. Obtain the appropriate Certification Form available in electronic and paper form. Refer to Section IV, C, of this written directive for the listing of Certification Forms.
 - d. Forward the appropriate Certification Form completed to EBS within fifteen (15) calendar days.
 - (1) If the member fails to provide the appropriate Certification Form to EBS within fifteen (15) calendar days of the original request, EBS will not approve the request for FMLA leave; therefore, PRS will be notified to change timekeeping entries appropriately.
 - (2) If after the fifteen (15) calendar days, the appropriate Certification Form is received and approved, EBS will request PRS to reverse the previously requested timekeeping changes.
 2. EBS will approve or deny the FMLA leave request.
 - a. If approved, EBS will notify the requesting member, member's supervisor, and commander via e-mail that the member will be on FMLA leave and the amount of time expected to be on leave.
 - b. If denied, EBS will notify the member for the reasons and any further actions necessary.
 3. The member's supervisor will:
 - a. Forward the e-mail notification to the designated timekeeper and ensure timekeeping entries are completed.

b. Prepare an Interdepartment Communication, Form 191 P.D., through the chain of command to transfer a member to the Family and Medical Leave Pool when the member continues on FMLA leave after twenty-eight (28) consecutive days. For further information, refer to the current written directive entitled, "Limited Duty," for further information.

c. Forward the member's jacket to PRS.

C. Certification Forms

1. Certification forms include:

a. Certification of Health Care Provider for Employee's Own Serious Health Condition, Form 162A P.D.

b. Certification of Health Care Provider for Family Member's Serious Health Condition, Form 162B P.D.

c. Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave, Form 162C P.D.

d. Certification of Qualifying Exigency for Military Family Leave, Form 162D P.D.

2. Any member requesting FMLA leave will be required to obtain and complete a Certification Form even when requesting intermittent leave (one-hour increments), unless a Certification Form is submitted and approved on an annual basis to EBS.

3. Medical records or overall history of visits to the health care provider will not be requested for medical certification.

4. The health care provider is to provide medical facts sufficient to support the need for leave including symptoms, diagnosis, hospitalization, medication prescribed, regimen of continuing treatment, as well as sufficient information on the member's inability or ability to perform their essential job duties.

D. EBS will:

1. Approve or deny the Application For Leave, Form 1 P.D., and make notifications as previously stated.

2. Send the Employer Response to Employee Request for Family and Medical Leave, Form 163 P.D.

3. Maintain all administrative matters pertaining to the member on FMLA Leave.

4. If a member was placed in the Family and Medical Leave Pool, advise the member's previous Bureau Commander when the member returns to duty.
 5. Ensure the most recent Department of Labor (DOL) FMLA poster is displayed in a conspicuous location at all department facilities.
- E. The Human Resources Director will have the final authority on FMLA decisions.
- F. Return to Duty
1. Upon returning to duty, the member will be reinstated to the same or an equivalent job position.
 2. Sworn members should refer to the current written directive entitled, "Firearms Procedures," regarding firearms qualification prior to returning to duty.
- G. Rights and Responsibilities
1. A member's reason(s) for the use or request of FMLA leave will be kept confidential.
 2. FMLA is administered and enforced by the Department of Labor. An employer is prohibited from interfering with, restraining, or denying the exercise of, or the attempt to exercise any rights provided by the act.

Darryl Forté
Chief of Police

Adopted by the Board of Police Commissioners this _____ day of _____, 20__.

Michael Rader
Board President

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EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity 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 or 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 with 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 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.

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 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 servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of 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 of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement 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 employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV



U.S. Wage and Hour Division

