




Central Florida Regional Transportation Authority
Policies and Procedures

HUMAN RESOURCES POLICY/PROCEDURE		No: HR-003
OFFICE OF PRIMARY RESPONSIBILITY: Human Resources	EFFECTIVE DATE: 05/24/2018 Revision #_1_ Revision Date:05/24/2018 Replaces: N/A	Page: 1 of 11
SUBJECT: Family and Medical Leave Act Policy		
Approved By  Edward L. Johnson Chief Executive Officer		

OBJECTIVE:

The Central Florida Regional Transportation Authority (hereinafter "Authority") was created by Part III, Chapter 343, Florida Statutes, to own, operate, maintain and manage a public transportation system in the Central Florida Area of Seminole, Orange, Osceola Counties, and to adopt such policies as may be necessary to govern the operating of a public transportation system and public transportation facilities. The Chief Executive Officer is authorized to establish and administer such policies. Therefore, it is necessary to establish a Family and Medical Leave Act policy.

SCOPE:

This policy applies to all employees of the Authority.

AUTHORITY:

Authority for this policy and procedures are as follows:

Part III, Chapter 343, Florida Statutes
Administrative Rule 3
Department of Labor, 29 CFR Part 825- The Family Medical Leave Act

POLICY:

It is the policy of the Authority to provide employees the opportunity to balance their work and family life by taking leave for certain qualifying reasons, in accordance with applicable law.

The Authority, by policy, will grant eligible employees up to 12 weeks of family and medical leave, during a "rolling" 12-month period, in accordance with the applicable provisions of the federal Family and Medical Leave Act of 1993 ("FMLA").



**Central Florida Regional Transportation Authority
Policies and Procedures**

The Authority, by policy, will grant eligible employees who are qualified Military Caregivers up to 26 weeks of family and medical leave, during a "rolling" 12-month period, in accordance with the applicable provisions of the FMLA.

The Authority complies with all applicable family leave laws, applicable collective bargaining agreements, and provisions of the Americans with Disabilities Act.

FMLA leave may be paid, unpaid, or a combination of paid and unpaid depending on the circumstances and as specified in this policy. When the employee has accrued paid leave, they must use paid leave first and take the remainder of the twelve weeks as unpaid leave.

ELIGIBILITY:

To be "eligible" for FMLA leave under this policy, an employee must meet all of the following conditions:

- be currently employed by the Authority;
- have worked for the Authority for a period of not less than 12 months;
- have worked for at least 1,250 hours during the year preceding the start of the leave; and

LEAVE ENTITLEMENT

Eligible employees will be granted up to 12 weeks of FMLA leave during a "rolling" 12-month period for one or more of the following reasons:

1. Care for the employee's child following birth, or placement with the employee of a child for adoption or foster care.

The right to take leave under FMLA applies equally to male and female employees. The father, as well as the mother, can take FMLA leave for the birth, placement for adoption or foster care of a child. However, an expectant mother may also take FMLA leave before the birth of a child for prenatal care or if her condition makes her unable to work.

An employee may be entitled to take FMLA leave prior to the actual placement or adoption of a child if his/her absence from work is required for the placement for adoption or foster care to proceed.

Leave taken in connection with the birth, adoption or placement of a child for foster care or the care of a child following birth, adoption or placement of a child for foster care must be concluded within a 12-month period beginning on the date the qualifying event occurs. For family/ bonding leave, LYNX only allows consecutive leave. Intermittent leave will not be granted.



**Central Florida Regional Transportation Authority
Policies and Procedures**

2. Care for an immediate family member (spouse, child, parent) with a serious health condition.

An employee shall be entitled to take FMLA leave for the care of a spouse, son, daughter, parent (but not a parent-in-law), or "in loco parentis" parent when it can be medically certified that the family member has a "serious health condition" and the employee is "needed to care for" the family member.

3. Employee's own serious health condition resulting from an injury or illness "on or off the job" that makes the employee unable to perform his or her job.

An employee shall be entitled to and/or required to take FMLA leave when it can be medically certified that "the employee is unable to perform the functions of his/her position," as a result of a "serious health condition" stemming from an injury or illness which occurred on or off the job. FMLA leave may be taken on an intermittent or reduced schedule basis when it can be certified that a medical necessity for such leave exists.

When it can be medically certified that a health condition for which an employee had previously taken sick leave has progressed into a "serious health condition," all or part of the sick leave may be retroactively designated as FMLA leave.

4. Military Family Leave: Section 585 (a) of the National Defense Authorization Act ("NDAA") amended the FMLA to provide two new leave entitlements. This provision applies to the families of members of both the active duty and reserve components of the Armed Forces. Eligible employees will be granted up to 26 weeks of FMLA leave during a "rolling" 12-month period for one or more of the following reasons:

- 1) Military Caregiver Leave (also known as Covered Service Member Leave): Eligible employees who are family members of covered service members will be able to take up to 26 weeks of leave in a "single 12-month period" to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty.

Based on a recommendation of the President's Commission on Care for America's Returning Wounded Warriors (the Dole-Shalala Commission), this 26 week entitlement is a special provision that extends FMLA job-protected leave beyond the normal 12 weeks of FMLA leave. This provision also extends FMLA protection to additional family members (i.e., next of kin) beyond those who may take FMLA leave for other qualifying reasons.

- 2) Qualifying Exigency Leave: Provides leave for eligible employees who are family members of the National Guard and Reserves who help service members



**Central Florida Regional Transportation Authority
Policies and Procedures**

manage their affairs while the member is on active duty in support of a contingency operation. This provision makes the normal 12 weeks of FMLA job-protected leave available to eligible employees with a covered military member serving in the National Guard or Reserves to use for “any qualifying exigency” arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation.

The final rule defines qualifying exigency by referring to a number of broad categories for which employees can use FMLA leave: (1) Short-notice deployment; (2) Military events and related activities; (3) Childcare and school activities; (4) Financial and legal arrangements; (5) Counseling; (6) Rest and recuperation; (7) Post-deployment activities; and (8) Additional activities that may arise out of active duty, provided LYNX and the employee agree, including agreement on timing and duration of the leave.

LIMITATIONS ON LEAVE ENTITLEMENT

The following provisions, as well as those provided in law or specified elsewhere in this policy will apply when determining an employee's entitlement for FMLA leave.

Both Spouses Employed by the Authority

A married couple in which both spouses are employed by the Authority and are eligible for FMLA leave shall be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken for the birth of a child, adoption or placement of a child in foster care, to care for the child following birth or placement.

For Military Caregiver Leave, both are entitled to a total of 26 weeks of leave during any 12-month period to care for their own family member who is a covered service member.

For non-Military Caregiver Leave, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave for qualified conditions.

Where both spouses use a portion of the combined entitlement of FMLA leave for one of the purposes listed above, each spouse would each be entitled, for a purpose other than those set forth above, to the difference between the amount he/she has taken individually and the entitled weeks of FMLA leave.



**Central Florida Regional Transportation Authority
Policies and Procedures**

PAID OR UNPAID LEAVE

When the employee has accrued paid leave the employee **must use paid leave** (including personal days) until the paid leave is exhausted and then take the remainder of the twelve weeks of FMLA leave as unpaid leave. The following provisions, as well as those provided in the law and as specified elsewhere in this or other Authority policies and collective bargaining agreements, will be applied when determining when FMLA leave is paid or unpaid.

Vacation Leave for Family Member

An employee must use their available paid leave as approved FMLA leave prior to taking unpaid FMLA leave. For the serious health condition of a family member an employee must use all paid vacation and then personal leave prior to being eligible for sick leave. After all paid leave is exhausted, the remainder of the FMLA period will be unpaid leave. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation and personal leave then sick leave prior to being eligible for unpaid leave.

Sick Leave for Self

An employee who is taking leave because of the employee's own serious health condition must first use all accrued and unused sick time followed by personal and vacation days. After all paid leave is exhausted, the remainder of the FMLA period will be unpaid leave.

An employee taking leave for the birth of their own child must use paid sick leave for physical recovery following childbirth. The employee may then use all paid vacation and personal leave, and then will be eligible for unpaid leave for the remainder of the 12 weeks.

Worker's Compensation Benefits

An employee's approved FMLA leave will run concurrently with a worker's compensation absence when the injury is one that meets the criteria of a serious health condition. Where a worker's compensation absence is paid, the provisions for substitution of accrued paid leave (i.e., vacation time, sick time, personal days) are not applicable.

However, if the health care provider treating the employee for the worker's compensation injury certifies that the employee is able to return to a light duty job, but is unable to return to the same or equivalent job, the employee may decline the employer's offer of a light duty job. As a result, the employee may lose worker's compensation benefits, but is entitled to remain on FMLA leave until the 12-week period is exhausted. The provisions for substitution of paid accrued and unused leave will become applicable and applied as of the date worker's compensation benefits cease.

INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE

Employees may take FMLA leave in consecutive weeks, or upon certification of medical necessity for such leave, may use the leave intermittently in separate blocks of time ranging from hours to



**Central Florida Regional Transportation Authority
Policies and Procedures**

several weeks. The FMLA must not exceed a total of 12 weeks over a rolling 12-month period unless it is Military Caregiver Leave, then the time must not exceed a total of 26 weeks over a rolling 12-month period.

Employees requesting intermittent leave must provide certification from their health care provider that such leave is medically necessary; the expected duration and schedule of such leave; and that the medical need can best be accommodated through an intermittent or reduced work schedule leave.

The Authority may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

PROCEDURES AND RESPONSIBILITIES

PROCEDURES

REQUESTING LEAVE

All requests for FMLA Leave must be submitted to the Human Resources Department on an authorized FMLA Request Form. FMLA Request Forms can be obtained in the Human Resource Department or on the Self-Service Website. All leave requests will be reviewed for compliance with the intent and provisions of the FMLA and these policies and procedures. Only Human Resources will approve eligible requests.

Employees must provide the Authority 30 days advance notice of the need to take FMLA leave when it is foreseeable, i.e., for the birth or placement of a child for adoption or foster care, or for planned medical treatment. If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until 30 days from the date the Authority receives notice.

When it is not possible to formally request leave in advance, employees must provide the Authority such notice within five (5) business days of the qualifying event, or as soon as is reasonably practical. When advance notice is not practical, employees are expected to comply with the Authority's usual procedures for requesting leave as soon as it can be reasonably expected.

An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the Authority's operations.

EMPLOYER NOTICE REQUIREMENTS

The Authority will post, in locations readily available to employees, a notice explaining employee rights under the FMLA.



**Central Florida Regional Transportation Authority
Policies and Procedures**

The Authority will provide the employee with the following notification upon receipt of their request for FMLA Leave:

- The leave will count against the annual FMLA entitlement;
- Which FMLA certification requirements apply;
- The applicant is required to exhaust available paid leave;
- The applicant should pay any medical premium payments for continuation of health care benefits.
- Should the applicant not pay while out on leave, he/she must make arrangements with the Authority for reimbursement. ; and
- Reinstatement rights.

EMPLOYEE REQUIREMENTS

Employees requesting FMLA leave must provide the following:

- 30-day advance notice of the need to take FMLA leave when the need is foreseeable;
- Follow normal call on / call off procedures when returning from a qualified FMLA leave , when leave is unforeseeable;
- Verifications or medical certifications supporting the need for requested leave;
- If required, and at the Authority's expense, second or third medical opinions and periodic recertification; and
- Periodic reports to the Authority during the leave period regarding the employee's status and intent to return to work.

CERTIFICATIONS

Employees are required to provide medical certification of a serious health condition to take FMLA leave. Such certification must be provided within 15 days following the employee's request for FMLA leave, or a reasonable explanation for the delay must be provided. Failure to provide certification may result in delay or denial of the requested leave until such certification is received.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.



**Central Florida Regional Transportation Authority
Policies and Procedures**

The Authority, at its expense, may request an employee to obtain a certification from a second health care provider to support the request for leave. Should the first and second opinions differ, the Authority, at its expense, may require a third opinion. The third opinion shall be considered final.

Upon the request of the Authority, employees may be required to obtain subsequent recertification when necessary to support continued leave. Recertification may be required not more often than every 30 days, unless an employee requests an extension of the original authorized leave period, circumstances have changed since the original certification, or the Authority has information raising a question regarding the validity of the original certification.

Employees returning from FMLA leave as a result of their serious illness are required to provide a fitness-for-duty certification showing the employee can perform the job requirements. An employee not providing the required fitness-for-duty certification may be denied reinstatement until such time as the certification is provided.

CONTINUATION OF BENEFITS DURING LEAVE

During the time an employee is on paid FMLA leave, the Authority will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee were at work. The employer and employee's portion of the medical premium payment (if any) will be paid in the customary manner.

While on unpaid FMLA leave, the employee is responsible for continuing to pay his or her portion of the medical insurance premium. If the employee is receiving paid time off the normal deductions for benefits will be taken from their pay. Once paid time off is exhausted the employee is responsible to contact Human Resources and make a reimbursement arrangement to collect benefit premiums from the employees check once they return to work. If the employee is unable to return to work all past due premiums are due to the authority at termination.

If an employee chooses not to return to work for reasons other than a continued serious health condition, or circumstances beyond their control, the Authority may require the employee to reimburse the Authority the full amount it paid on behalf of the employee to maintain their health insurance coverage and such other benefits as identified in the act, during the leave period. Request for reimbursement will be made as part of the normal separation procedure.

REINSTATEMENT

Employees who meet all requirements for reinstatement are entitled to a return to their original job or a job with equivalent status, pay, benefits and other employment terms which entails substantially equivalent skill, effort, responsibility and authority.



**Central Florida Regional Transportation Authority
Policies and Procedures**

UNLAWFUL ACTS

The Authority will not interfere with, discharge or discriminate or retaliate against any employee attempting to exercise their rights under the FMLA.

ENFORCEMENT

The U.S. Department of Labor is authorized to investigate and resolve complaints of violations of the FMLA. Eligible employees may bring civil action against the Authority for violations.

The employer is authorized to investigate and resolve complaints of violations of FMLA.

The 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.

RELATED POLICIES:

- Sick Leave
- Attendance and Punctuality
- Vacation



DEFINITIONS:

As used in this policy, the following terms shall have the meanings indicated.

Continuing treatment -- a period of incapacity of more than three (3) consecutive calendar days and also involves:

- two or more visits to a health care provider or at least one visit to a health care practitioner that results in a regimen of continuing treatment under the supervision of the healthcare provider;
- any period of incapacity because of pregnancy or prenatal care;
- any period of incapacity for a chronic serious health condition;
- permanent or long-term incapacity for treatment; or
- any period of absence to receive multiple treatments.

Covered Service Member -- a spouse, son, daughter, parent, or next of kin who is:

1. a **current service member** undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred or aggravated in the line of duty on active duty.

or

2. a **veteran** of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service member.

This provision applies to the families of members of both the active duty and reserve components of the Armed Forces.

Family member -- a son or daughter, spouse, parent (does not include parent-in-law). The definition of son or daughter includes individuals for whom the employee stood or is standing "in loco parentis." The definition of parent includes individuals who stood "in loco parentis" to the employee. See below for the definition of "in loco parentis."

FMLA Misuse -- instances in which the employer may investigate absences that appear not to match the FMLA guidelines for excused absences by the employee. Examples include but are not limited to: absence patterns, absences coinciding with non-work events; absences that differ from the medical certification in frequency or duration; and/or



**Central Florida Regional Transportation Authority
Policies and Procedures**

sightings or reports of the employee being in inappropriate places or engaged in non-FMLA activities.

Health care provider -- a licensed doctor(s) of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse midwives, nurse practitioners, clinical social workers, and physician assistants practicing within the scope authorized by the State, and registered Christian Science practitioners.

(in) Loco Parentis -- Latin for "in the place of a parent" refers to the legal responsibility of a person or organization to take on some of the functions and responsibilities of a parent.

Military Caregiver -- a spouse, son, daughter, parent, or next of kin of a covered service member.

Parent -- a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. **This term does not include "parent- in-law."**

Rolling 12-month period -- the method used to determine the period in which the 12 weeks of leave entitlement occurs. Under this method, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks, which has not been used during the immediately preceding 12 months.

Serious health condition -- an illness, injury, impairment or physical or mental condition that involves in-patient care in a medical facility, or continuing treatment by (or under the supervision of) a health care provider.

Serious injury or illness for a current service member -- is one that may render the service member medically unfit to perform his or her military duties.

Serious injury or illness for a veteran -- is one that rendered the veteran medically unfit to perform his or her military duties, or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran's ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

Son or daughter -- a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

Spouse -- a husband or wife as defined or recognized under state law for purposes of marriage.