

TO: ALL COUNTY PERSONNEL
FROM: ROBERT WEISMAN, COUNTY ADMINISTRATOR
PREPARED BY: HUMAN RESOURCES
SUBJECT: FAMILY AND MEDICAL LEAVE ACT AND DOMESTIC PARTNER LEAVE
PPM#: CW-P-077

ISSUE DATE
May 14, 2012

EFFECTIVE DATE
May 14, 2012

PURPOSE:

To assure compliance with and consistent administration of the Family and Medical Leave Act of 1993, as amended (FMLA). Provide for the preservation of employment and maintenance of benefits during periods of leave necessary to care for the employee's own serious health condition or that of eligible family members or covered service members. To establish procedure for implementing a policy providing for the preservation of employment and maintenance of health care benefits during periods of leave where an employee is needed to care for the serious health condition of a registered domestic partner or the serious illness or injury of a covered service member who is his or her registered domestic partner. Future updates to PPM # CW-P-077 will be the responsibility of the Director of Human Resources.

AUTHORITY:

- The Family and Medical Leave Act of 1993, as amended
- Palm Beach County Code 2-6
- Americans with Disabilities Act Amendments Act of 2008

Any conflict between this PPM, Palm Beach County Code 2-6, the Americans with Disabilities Act Amendments Act of 2008, and the FMLA or their applicable regulations, as amended, will be resolved in accordance with the Palm Beach County Code 2-6, the Americans with Disabilities Act Amendments Act of 2008, FMLA and their regulations.

POLICY:

Palm Beach County will provide leaves of absence consistent with the provisions of the FMLA during which the employee's position will be preserved and individual group health insurance benefits will be maintained during periods of absence necessary to care for the employee's own serious health condition, birth or adoption/placement of a child, or the serious health condition of an eligible family member. Palm Beach County will also provide leaves of absence equivalent to leave provided by the FMLA for employees who need to care for the serious health condition of a

registered domestic partner or the birth or adoption/placement of a child with a registered domestic partner. Leaves of absence for up to twelve (12) work weeks will be administered in accordance with the provisions of the Family and Medical Leave Act of 1993, as amended (FMLA). The “rolling” twelve month period will be used to calculate leave for these reasons.

Leaves of absence for up to twelve (12) work weeks for any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, registered domestic partner or parent is a covered military member on active duty, or has been notified of an impending call to active duty, in support of a contingency operation. This leave will be administered in accordance with the provisions of the FMLA. The “rolling” twelve month period will be used to calculate leave for these reasons.

Leaves of absence for up to twenty-six (26) work weeks to care for a covered service member with a serious injury or illness incurred in the line of duty while on active duty will be administered in accordance with the provisions of the FMLA. This leave will be calculated using a “single 12-month period.”

DEFINITIONS:

Active Duty/Call to active duty: Duty under a call or order to active duty, or notification of an impending call or order to active duty in support of a contingency operation.

Adoption: Legally and permanently assuming the responsibility of raising a child as one’s own.

Chronic Serious Health Condition: A serious health condition which requires periodic visits at least twice per year for treatment by a health care provider, continues over an extended period of time and may cause episodic incapacity.

Continuing Treatment: Includes one or more of the following situations—

-Incapacity and treatment of more than three consecutive, full calendar days and any subsequent treatment related to the same condition.

-Treatment two or more times within 30 days of the first day of incapacity,

-Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment

Treatment by a health care provider means an in-person visit to a health care provider

Covered Service Member: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retirement list, for a serious injury or illness, Also, an eligible employee’s spouse, registered domestic partner, son, daughter, or parent on active duty or call to active duty status.

Eligible Employee: An employee who has been employed for at least 52 weeks, and has actually worked for at least 1250 hours of service during the twelve-month period immediately preceding the commencement of the leave.

Eligible Family Member: For employees taking leave under the FMLA eligible family member includes the employee's son or daughter, son or daughter on active duty or call to active duty, spouse, parent, or next of kin. For employees taking domestic partner leave eligible family member includes registered domestic partner, son or daughter, son or daughter on active duty or call to active duty, spouse, or parent. For spouses who are both employed by Palm Beach County Board of County Commissioners parents-in-law are considered eligible family members.

Foster Care: Twenty-four hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child.

Health Care Provider: Doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

- podiatrists, dentists, clinical psychologists, optometrists and chiropractors limited to treatment consisting of manual manipulation of the spine to correct subluxation
- nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law
- Christian Science Practitioners listed with the First Church of Christ, Scientists in Boston, Massachusetts
- any health care provider from whom the group health plan benefits manager will accept certification
- a health care provider listed above who practices in a country other than the United States who is authorized to practice in accordance with the law of that country and who is performing under the scope of his or her practice

Incapable of self-care: An individual requiring active assistance with performing three or more activities of daily living or instrumental activities of daily living. Activities of daily living include caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

In loco parentis: Persons with day to day responsibility to care for and financially support a child, or who had the responsibility when the employee was a child.

Next of kin: Nearest blood relative other than the covered service member's spouse, parent, son or daughter in the following order of priority—blood relatives who have been granted legal custody, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless another blood relative has been designated in writing by the covered service member.

Reduced Leave Schedule: A leave schedule that reduces an employee's usual number of working hours scheduled per work week, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

Registered Domestic Partnership: A committed relationship between two persons who consider themselves to be a member of each other's immediate family and have registered their partnership in accordance with the requirements established by section 4 of Palm Beach County Code 2-6.

Serious Health Condition: An illness or injury that involves an overnight stay in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment, **or**

An illness or injury that causes more than three (3) consecutive full calendar days of incapacity and any subsequent treatment that involves two or more in-person treatments by a health care provider within 30 days of the first day of incapacity, with the first in-person treatment occurring within seven (7) days of the first day of incapacity, **or**

An illness or injury that causes more than three (3) consecutive calendar days of incapacity and involves at least one in-person treatment by a health care provider and results in a regimen of continuing treatment under a health care provider's supervision, **or**

Any period of incapacity due to pregnancy or for prenatal care, **or**

A chronic serious health condition, or a permanent or long-term serious health condition which requires at least two in-person visits per year for treatment by a health care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity.

Serious injury or illness: An injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

Single 12-month period: Begins on the first day the employee takes leave to care for the covered service member and ends 12 months after that date.

Son or Daughter: Biological, adopted, foster child, stepchild, a legal ward, or the child of a person standing in loco parentis to a person under eighteen years of age, or a person over eighteen years of age who is incapable of self-care due to a physical or mental disability.

Son or Daughter on active duty or call to active duty: An employee's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age.

Spouse: Husband or wife as recognized under state law.

Parent: A biological parent or a person who stands "in loco parentis".

Unable to perform the functions of the position: Where the health care provider finds that the employee is unable to perform any one of the essential functions of the employee's position as

defined by the American's with Disabilities Act, as amended, or where the employee must be absent to receive medical treatment for a serious health condition.

Work Week: The regularly scheduled days and hours which make up one full week of work.

PROCEDURES:

A. Trigger Events:

FMLA/DPL leave is available on a consecutive, reduced schedule or intermittent basis for up to twelve workweeks only for specific trigger events:

1. Birth of a child-

A parent is allowed leave for the birth of a child and care of a newborn. The entitlement to FMLA/DPL leave expires twelve months after the birth of the child. Intermittent/reduced schedule leave may not be taken for the birth of a child unless approved by the department head.

2. Adoption/Placement of a child-

A parent is eligible for leave for the placement of a child for foster care or the adoption of a child. FMLA/DPL leave can be taken for required absences from work due to proceedings which are necessary to process the adoption or placement, including court proceedings, consultations with attorneys or doctors, or physical examinations.

3. Need to care for a spouse, registered domestic partner, child or parent with a serious health condition-

"Need to care for" can include physical or psychological comforting for a eligible family member with a serious health condition, situations where the employee may be needed to substitute for others who normally care for the eligible family member, or situations where the eligible family member is unable to care for themselves or transport themselves to medical appointments. An employee will be required to prove a legitimate familial relationship on the *Acknowledgment of Family Relationship* form when requesting FMLA/DPL to care for an eligible family member. Employees taking leave to care for an eligible family member must submit medical certification to the OHC indicating that the leave is medically necessary.

4. Employee's serious health condition-

An eligible employee may take FMLA leave because of a serious health condition which causes the employee to be unable to perform the functions of his or her job.

B. Trigger events for military leave:

1. Leave because of a qualifying exigency-

Eligible employees may take FMLA/DPL leave while the employee's eligible family member duty status for one or more of the following reasons:

·Up to seven calendar (7) days of leave may be taken to address any issue that arises from the fact that a covered military member is notified of an impending order to active duty

- Attendance at any official ceremony, program, or event sponsored by the military related to active duty or call to active duty
- Attendance at family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations or the American Red Cross
- To arrange for enrollment in or transfer to a new school or daycare or to provide alternate childcare, or provide childcare on an urgent immediate need
- Up to five days of leave may be taken for each instance of rest and recuperation leave during the covered service member's period of deployment
- All other trigger events established by FMLA Rules and Regulations as established in 29 CFR 825.126

2. Leave to care for a covered service member with a serious injury or illness-

Eligible employees are entitled to up to 26 workweeks of leave during a "single 12-month period" to care for a covered service member who has a serious injury or illness incurred while on active duty

C. Consecutive/Intermittent/Reduced Schedule Leaves of Absence:

Employees may take leave under the FMLA/DPL consecutively or intermittently or on a reduced schedule unless the requested schedule is specifically limited or excluded by FMLA regulations. Each increment of leave must be recorded on *HRIS Leave Request* and must designate the leave as FMLA or DPL.

1. Intermittent Leave/Reduced Schedule Leave-

Intermittent leave can be taken for whole or partial days, but for no smaller increment than fifteen (15) minutes. Departmental procedures for requesting leave must be followed. Leave taken on an intermittent/reduced schedule basis must be medically necessary and best accommodated through an intermittent or reduced schedule leave. Employees taking intermittent leave or working a reduced schedule must attempt to schedule leave so as not to disrupt departmental operations. The employee may be temporarily assigned to an alternate position with equivalent pay and benefits that better accommodates the intermittent or reduced leave schedule.

2. Consecutive Leave-

Periods of consecutive leave must be taken in accordance with the dates of incapacity stated on the medical certification. Employees taking consecutive leave must make written or verbal contact with their immediate supervisor or other personnel designated by the department once every thirty (30) calendar days while on leave.

D. Requesting leave:

1. Scheduled leave of absence-

Employees requesting leave of absence for foreseeable events must request the time off at least thirty (30) calendar days prior to the day the leave is scheduled to start. Failure to give timely notice for foreseeable leave may delay the taking of FMLA/DPL.

2. Unscheduled leave of absence-

If the event necessitating leave is not foreseeable, or it is impossible for the employee to give notice at least thirty days prior to the start of the leave, a request for leave should be made as soon as practicable by the employee. If the leave is for the employee the request can be made by the employee or a person representing the employee. Certification to support the leave must be submitted within fifteen (15) calendar days of the start of the FMLA/DPL leave. Until certification has been submitted, the employee may be considered to be on conditional FMLA/DPL leave and will be required to comply with the *Merit System Rules and Regulations*, applicable bargaining agreements, and any existing departmental leave procedures until a decision is made on the request for FMLA/DPL. Fire Rescue employees covered by the IAFF will be required to comply with existing departmental leave policies and the applicable collective bargaining agreement.

3. Maximum leave allowed-

All eligible employees are entitled to leave as established by the FMLA. Entitlement to Domestic Partner Leave will be reduced by the amount of FMLA leave taken in the 12-month period prior to the start of the Domestic Partner Leave.

E. Notification to the Occupational Health Clinic (OHC):

Employees are required to comply with their individual department's procedures regarding leave. When a department has reason to believe that the request for leave involves the employee's own illness or injury or that of an eligible family member the information must be forwarded to the OHC for an FMLA/DPL review. If the request is for FMLA the employee must be notified within five (5) business days of the request for leave of their eligibility, rights and obligations under the FMLA using the *Notice of Eligibility and Rights & Responsibilities* form or communication containing similar information.

F. Certification:

All FMLA/DPL leave taken must be supported by appropriate certification. The employee must submit appropriate certification from a health care provider to the Occupational Health Clinic (OHC) for medical leaves of absence. For non-medical leaves of absence, the certification must be presented to the designated department official. Certification does not have to be submitted with the leave request, but should be submitted within fifteen calendar days from the date of the request for FMLA/DPL leave. Failure to provide certification to substantiate the need for FMLA/DPL leave may delay the start of FMLA/DPL leave until the employee produces the sufficient certification. Any leave taken while awaiting submission of sufficient certification may be counted as FMLA/DPL. If sufficient certification is never produced, the leave is not FMLA/DPL leave and is subject to applicable departmental leave policies, the *Merit System Rules and Regulations*, and/or applicable collective bargaining agreements. Any leave designated as FMLA/DPL during this time will be reclassified.

1. Medical Certification-

Medical certifications are valid for either the time specified by the health care provider or for no more than one year from the date the FMLA commenced. If necessary the

certification must be renewed when the specified time expires or annually, whichever is earlier.

a. Medical Certification for the employee's own serious health condition:

Medical certification for the employee's own serious health condition may be submitted on the *Certification of Health Care Provider for Employee's Serious Health Condition* form. If the form is not used, the certification submitted must at least include the following information:

-name, address, telephone number and fax number of the health care provider and the type of medical practice or specialization

-description of appropriate medical facts regarding the health condition for which FMLA leave is being requested, including but not limited to information on symptoms, diagnosis, hospitalization, doctor visits, whether medication is prescribed, referrals for evaluations or treatment or any other regimen of continuing treatment

-date the serious health condition commenced and its probable duration

-length of incapacity

-whether intermittent or leave on a reduced schedule is medically necessary and an estimate of the dates and duration of such treatments and any periods of recovery

-if FMLA leave is being requested on an intermittent or reduced leave schedule basis for planned medical treatment the employee must provide information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration for such treatments and any periods of recovery

-if FMLA leave is being requested on an intermittent or reduced leave schedule basis for a serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity the employee must provide information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and durations of such treatments and any periods of recovery

-information sufficient to show that the employee cannot perform the essential functions of the employee's job, as well as any other work restrictions and the likely duration of the inability to perform

b. Medical Certification for employee's family member's needs:

Employees requesting FMLA/DPL leave for an eligible family member may submit medical certification on the *Certification of the Health Care Provider for Family Member's Serious Health Condition* form. If the form is not used, the certification submitted must at least include the following information:

-name, address, telephone number and fax number of the health care provider and the type of medical practice or specialization

-the approximate date the serious health condition commenced and its probable duration

-description of appropriate medical facts regarding the health condition for which FMLA leave is being requested, including but not limited to information on symptoms, diagnosis, hospitalization, doctor visits, whether medication is

prescribed, referrals for evaluations or treatment or any other regimen of continuing treatment

-whether the patient is in need of care and an estimate of the frequency and duration of the leave required

-if the leave is being requested on an intermittent or reduced leave schedule the employee must provide information showing medical necessity for intermittent/reduced schedule leave and the frequency and duration for the leave

-if FMLA leave is being requested on an intermittent or reduced leave schedule for planned medical treatment the employee must provide information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery

c. Certification for leave taken to care for a covered service member with a serious injury or illness:

Employees requesting FMLA/DPL leave to care for a covered service member with a serious injury or illness may submit certification completed by a US Department of Defense (DOD) health care provider or US Veterans Affairs (VA) health care provider. If the form is not used, the certification submitted must at least include the following information:

-name, address, and appropriate contact information of the health care provider, the type of medical practice, the medical specialty and whether the health care provider is one of the following:

-a DOD health care provider

-a VA health care provider

-a DOD TRICARE network authorized private health care provider

-a DOD non-network TRICARE authorized private health care provider

-whether the injury or illness was incurred in the line of duty

-the approximate date the serious injury or illness commenced and its likely duration

-a description of appropriate medical facts

-information sufficient to establish that the covered service member is in need of care, whether care will be needed for a single continuous period of time, and an estimate as to the beginning and ending dates for this period of time

-if the leave requested is for an intermittent or reduced schedule basis for planned medical treatment, information showing the necessity to have such care and estimate of the treatment schedule

-If the leave requested is for an intermittent or reduced schedule basis for episodic flare-ups of a medical condition, whether there is a medical necessity for the covered service member to have such periodic care and an estimate of the frequency and duration of the periodic care

2. Non-medical certification-

Non-medical FMLA/DPL leave includes leave taken for the adoption of a son or daughter or placement of a child for foster care and qualifying exigencies for covered service members. Employees taking FMLA/DPL leave for qualifying exigencies may submit the

Certification of Qualifying Exigency for Military Family Leave form. If a form is not used, the certification submitted must at least include the following information:

a. Certification for leave taken for an adoption or placement for foster care:

A statement from the employee, attorney, or other agent involved in the adoption or placement which includes appropriate facts supporting the need for FMLA/DPL leave, including the date the process commenced and the estimated date the process will conclude.

b. Certification for leave taken for a qualifying exigency:

The first time an employee requests leaves of absence for a qualifying exigency the employee may submit the *Certification of Qualifying Exigency for Military Family Leave* and supporting documentation confirming the covered service member's active duty or call to active duty to the designated department/division timekeeper and also comply with any existing individual departmental leave procedures. The employee will not be required to submit documentation of active duty status for each period of qualifying exigency leave related to the same period of active duty. Whenever the qualifying exigency is for a new period of active duty the new orders will be required. For each qualifying exigency certification must include:

- A statement signed by the employee describing the type of qualifying exigency. Supporting documentation can be attached to this statement.
- the date the qualifying exigency commences or will commence
- if the qualifying exigency is for a single continuous period of time the certification must include the beginning and ending dates for the absence
- if the qualifying exigency is for an intermittent or reduced schedule basis the certification must include an estimate of the frequency and duration of each exigency
- if the qualifying exigency requires meeting with a third party the certification must include the contact information for that person and a description of the purpose of the meeting

3. Insufficient/Incomplete Certification-

A certification is considered insufficient if the information provided is vague, ambiguous or non-responsive. An incomplete certification is one where one or more of the inquiries have not been completed. If a certification is found to be insufficient or incomplete the employee must be advised in writing of the deficiencies and allowed seven (7) calendar days to submit a corrected and/or completed certification. If the deficiencies are not corrected the request for FMLA/DPL may be denied. This provision applies to initial certifications, re-certifications, second or third opinions, fitness for duty certificates, including any clarifications necessary to determine if such certifications are authentic and sufficient. Sufficiency and completeness of certification for medical leave will be determined by the OHC. All other certifications will be reviewed by the department and the department will be responsible for advising the employee of the insufficiency or if the document is incomplete.

G. Determining Eligibility:

Eligibility is determined as of the date the FMLA/DPL leave is to begin. An employee is eligible for FMLA/DPL leave after having been employed for twelve months **and** after having actually worked 1250 hours. The twelve months of employment do not have to be consecutive months, but must have occurred within the seven (7) years prior to the date the leave is to commence. The 1250 hours worked must have occurred during the consecutive twelve months immediately preceding the start of leave. The department will determine whether the employee has the requisite number of months of employment and hours of service to be eligible for leave under the FMLA. In cases where the employee is taking FMLA/DPL leave to care for an eligible family member, the department will verify whether an eligible familial relationship exists. The departments will also have the responsibility of reviewing required documentation in order to determine eligibility for leave taken for qualifying exigencies, adoption and fostering, and other non-medical FMLA/DPL leave. Eligible employees will be required to provide certification to support the need for leave of absence under FMLA/DPL.

1. Counting twelve months of employment-

The twelve months of employment for eligibility do not need to be consecutive months. If an employee is on the payroll for any part of a week, including any periods of paid or unpaid leave during which other benefits or compensation are provided, the week counts as a week of employment. Time served performing the military service must also be counted in determining eligibility. Fifty-two (52) weeks of employment is equal to twelve months.

2. Counting 1250 hours of service-

Hours of service include all the time during which an employee is on duty on the premises or at a prescribed workplace. An employee returning from fulfilling his or her National Guard, Reserve military obligation or military service shall be credited with the hours of service that would have been performed during the military service. Eligibility is counted backward twelve months from the date the leave is to begin.

H. Both spouses/registered domestic partners employed by the Board of County Commissioners:

When both the husband and the wife or both registered domestic partners are employed by a Board of County Commission department or office they may be limited to a combined total of twelve work weeks of FMLA/DPL leave during any twelve month period for childbirth, adoption or fostering, or to care for a parent with a serious health condition. They will be limited to a combined total of 26 workweeks FMLA/DPL to care for a covered service member with a serious illness or injury.

I. Consecutive/Intermittent/Reduced Schedule Leaves of Absence:

Employees are entitled to take up to either 12 or 26 work weeks of leave under the FMLA/DPL consecutively or intermittently or on a reduced schedule. Departmental procedures for requesting other types of leave must also be followed by employees requesting leave under the FMLA. Each increment of leave must be recorded on HRIS and must designate the leave as FMLA/DPL.

1. Intermittent Leave/Reduced Schedule Leave-

Intermittent leave can be taken for whole or partial days, but for no smaller increment than fifteen (15) minutes. Departmental procedures for requesting leave must be followed. Leave taken on an intermittent/reduced schedule basis must be medically necessary and best accommodated through intermittent or reduced schedule leave. Employees taking intermittent leave or working a reduced schedule must attempt to schedule leave so as not to disrupt departmental operations. The employee may be assigned to an alternate position with equivalent pay and benefits that better accommodates the intermittent or reduced leave schedule.

2. Consecutive Leave-

Periods of consecutive leave must be taken in accordance with the dates of incapacity or absence stated on the certification. Employees taking leave are required to make written or verbal contact as directed by the department once every thirty (30) calendar days while on leave.

J. Conditional approval of FMLA/DPL leave:

If leave begins before complete and sufficient certification is received and eligibility determinations are made, the employee may be approved for a conditional leave. When a conditional approval is given the employee has fifteen (15) calendar days to submit complete and sufficient certification. If conditional approval is given due to an insufficient or incomplete certification the employee may:

- be requested to authorize the release of medical information to the OHC for clarification and/or authentication of the certification, or
- be required to submit a second opinion furnished by a health care provider selected by the County at the County's expense.

1. Reclassifying conditional approval-

If it is determined that an employee is not eligible for leave, but there is sufficient medical certification, any leave already taken will be reclassified as sick leave in accordance with Merit Rule 9 and is subject to department attendance policies. If an employee fails to provide sufficient non-medical certification, the conditional leave will be reclassified as unscheduled vacation leave and will be subject to the Merit Rules and department leave policies. Fire Rescue employees covered by the IAFF will be required to comply with existing departmental leave policies and the applicable collective bargaining agreement.

2. Intermittent/Reduced Schedule/Consecutive Leave-

Approval for leave will continue through the end date designated on the certification or for no more than the time allowed by the FMLA/DPL, whichever is shorter. An extension of leave not to exceed twelve workweeks within the twelve month period after the start of the leave may be granted provided complete and sufficient certification is received. In the case of leave to care for a covered service member an extension not to exceed twenty-six workweeks in a single 12-month period provided complete and sufficient certification is received to support the extension.

3. Designating Leave as FMLA-

The decision whether to designate leave as FMLA must be communicated to the employee within five (5) business days after receiving enough information to determine whether the leave is for an FMLA stated reason. If it is determined that the employee is not eligible for FMLA, the notice must indicate at least one reason for the denial. If it is determined that the leave is FMLA, the notice must contain the following information:

- that employees will be required to utilize paid leave as available during the FMLA
- in cases of medical absence, a release from a treating medical professional will be required before being allowed to return to work
- if known, the amount of leave which will be counted against the FMLA entitlement

K. Recertification:

Recertification may be requested in connection with an absence by the employee. The employee *must* provide the requested recertification within fifteen (15) calendar days after the request, unless it is not practicable to do so despite the employee's diligent, good faith efforts. Any recertification requested shall be at the employee's expense. No second or third opinion on recertification may be required. Recertification may be requested under the following circumstances:

1. 30 day rule-

Recertification may be requested no more often than every thirty (30) days and *only* in connection with an absence by the employee, unless paragraphs (K)(3) (a), (b), or (c) apply

2. More than 30 days-

If the certification indicates that the minimum duration of the condition is more than 30 days, a request for recertification cannot be made until the minimum duration has expired unless paragraphs (K)(3)(a), (b), or (c) apply

3. Less than 30 days-

- a. Circumstances described by the previous certification have changed significantly; or
- b. Information has been received which casts doubt upon the employee's stated reason for the absence.
- c. The employee requests an extension of the leave

4. For all FMLA/DPL leave-

Recertification of a medical condition may be requested every six (6) months in connection with an absence by the employee even if the original medical certification indicates that the employee will need intermittent or reduced schedule leave for period in excess of six months.

L. Recording FMLA/DPL Leave used:

Leave under the FMLA/DPL will be paid leave provided the employee has available leave balances. When leave balances are exhausted the FMLA/DPL leave will either be unpaid or compensated pursuant to the labor management agreement or worker's compensation regulations.

Employees may use donated leave during a leave of absence under FMLA/DPL. Employees taking leave under the FMLA will use available leave balances in the following order:

1. Non-CWA/IAFF Employees-

Leave is to be deducted in accordance with Merit Rule 9.

a. FMLA/DPL leave taken for Employee/Family Serious Health Condition or to care for the serious injury or illness of a covered service member:

If FMLA leave is being taken for the employee's own or an eligible family member's serious health condition, or to care for the serious injury or illness of a covered service member, the employee must exhaust sick leave balances first regardless of whether leave is used consecutively, intermittently or on a reduced schedule. The employee will then be required to exhaust vacation leave and compensatory time balances. After the employee has used all paid leave balances, he/she will be placed in a leave without pay status.

b. FMLA/DPL leave taken for Childbirth, Adoption or Fostering or for a qualifying exigency:

If FMLA/DPL leave is being taken for the purpose of childbirth, adoption, or fostering a child, or for a qualifying exigency, the employee may elect to use vacation leave in lieu of sick leave.

2. CWA/IAFF Employees-

Employees must exhaust leave balances and will be compensated in accordance with the provisions of the labor management agreement.

3. Coding Leave for Time Sheets-

When preparing payroll, leave under the FMLA/DPL is to be recorded as designated by the earnings codes prepared by payroll.

M. Returning to Work after leave under FMLA/DPL Leave:

Employees returning to work after a period of leave that exceeds five or more days must comply with Merit Rules 9.02(B)(2)(c). Fire Rescue employees covered by the IAFF will be required to comply with existing departmental leave procedures and the applicable collective bargaining agreement.

1. Return to work following leave for the employee's own serious health condition--

Employees are expected to return to work immediately upon release by a health care provider or at the expiration of the approved leave of absence. At the end of the leave the employee will be reinstated to the same or an equivalent position. If the employee does not return to work upon release by a health care provider or at the expiration of the approved leave of absence, the employee will be considered to be absent without authorized leave and subject to disciplinary action, up to and including termination. An employee who has been released by a health care provider to return to work and fails to return to his/her employment may be held responsible for costs incurred by the

County to keep the employee's health insurance in effect. Employees may be required to provide "fitness for duty" certification in order to be released to return to work.

2. Denial of reinstatement following FMLA leave-

If an employee absent due to his or her own serious health condition fails to provide a return to work release from a medical professional, reinstatement will be denied until the certificate is received.

3. Fraudulent use of FMLA/DPL-

An employee who fraudulently obtains FMLA/DPL leave is not protected by FMLA/DPL's job restoration or maintenance of health benefits provisions.

INTERACTION WITH APPLICABLE STATUTES AND POLICIES:

A. Americans with Disabilities Act:

If an employee has a qualified disability or becomes disabled with a qualified disability during his/her employment, the employee will be provided reasonable accommodation(s) to assist in the performance of the essential functions of the employee's job.

B. Worker's Compensation:

If the employee is on leave because of a compensable workplace injury or illness for which he/she is receiving compensation benefits, and if the injury or illness qualifies as a serious health condition under the FMLA, the leave taken shall be designated as leave under the FMLA and will be deducted from the employee's twelve work week FMLA leave entitlement.

C. Countywide PPM# CW-P-054:

Leave taken due to a serious health condition as defined by the FMLA, shall also be concurrently covered by the terms of PPM# CW-P-054. Fire Rescue employees covered by the IAFF will be required to comply with existing departmental leave procedures and the applicable collective bargaining agreement.

D. Countywide PPM# CW-P-022:

Employees on approved FMLA/DPL shall have their group insurance benefits continued in force for up to 12 work weeks. In the event that any of the FMLA/DPL leave is unpaid the County shall continue payment of the health insurance premiums, but only until the expiration of the 12 work weeks from the first missed working day. Any portion of the premium for personal or dependent coverage, normally paid by the employee will continue to be the responsibility of the employee.

ENFORCEMENT:

Every department is required to post a notice explaining the provisions of the FMLA/DPL and providing information about the procedures for filing complaints. The notices must be prominently posted in areas where they can be readily seen in all places where employees are assigned.

Every employee is prohibited from interfering with, restraining or denying the exercise of FMLA/DPL rights or attempting to do so. Employees who believe their rights under the FMLA/DPL have been violated may file a complaint.

A. Internal Complaints:

Complaints alleging interference with or retaliation for using FMLA/DPL may be filed with the Fair Employment Programs Section of Human Resources. These complaints must be filed within 180 days of the date the employee discovers that his/her rights have been violated. The complaint can be filed in person, by telephone or letter addressed to:

Manager, PBC Human Resources/FEP
100 Australian Avenue, Suite 300
West Palm Beach, Florida 33406
561/616-6860 or 561/616-6858

B. U.S. Department of Labor:

It is unlawful to discharge or otherwise discriminate against any individual for opposing a practice made unlawful by the FMLA or who participates in any FMLA inquiry or proceeding.

Complaints alleging interference with or retaliation for taking leave under the FMLA only can be filed with the Department of Labor. These complaints must be filed within two years of the date the employee discovered the violation. The complaint must be written and addressed to:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
1818 South Australian Avenue
West Palm Beach, Florida 33409
561/640-0474



ROBERT WEISMAN, P.E.
COUNTY ADMINISTRATOR

Supersession History

ACKNOWLEDGMENT OF FAMILY RELATIONSHIP

EMPLOYEE NAME	DATE
DEPARTMENT/DIVISION	SUPERVISOR
I certify that the above information given is true and correct to the best of my knowledge. I also understand that any false answers or statements made knowingly by me on this request for FMLA leave or in connection with an extension of this request, will be sufficient ground for disciplinary action up to and including discharge.	EMPLOYEE INITIALS

I AM REQUESTING FAMILY FMLA DPL LEAVE FOR:

- Spouse/Registered Domestic Partner: _____
- Official original or certified copy of the Marital Record has been presented for review by the employee
 - Official original or certified copy of the Declaration of Domestic Partnership has been presented for review by the employee
 - Employee has not presented documentation of this relationship. Employee hereby certifies that an eligible marital relationship exists between the employee and the named relative and that the relationship is in compliance with applicable Florida Statutes.

Employee Signature Date

- Child: _____ (or person for whom employee is "in loco parentis")
- Official original or certified copy of the birth/adoption/placement record has been presented for review by the employee
 - Employee has not presented documentation of this relationship. Employee hereby certifies that an eligible family relationship currently exists or is pending adoption/placement between the employee and the named relative.

Employee Signature Date

- Parent: _____ (or person who stood "in loco parentis" for employee)
- Official original or certified copy of the birth/adoption record has been presented for review by the employee
 - Employee has not presented documentation of this relationship. Employee hereby certifies that an eligible family relationship exists between the employee and the named relative.

Employee Signature Date

I AM REQUESTING LEAVE TO CARE FOR A COVERED SERVICEMEMBER.

- Next of Kin: _____ (Designation of relationship)
- Employee has presented written designation as next of kin signed by the covered service member
 - Employee has not presented documentation of this relationship. Employee hereby certifies that an eligible family relationship exists between the employee and the named relative.

Employee Signature Date

**FAMILY AND MEDICAL LEAVE ACT/DOMESTIC PARTNERSHIP
REQUEST FOR LEAVE**

EMPLOYEE NAME		DATE
DEPARTMENT	DIVISION	SUPERVISOR

I REQUEST THE FOLLOWING TYPE OF LEAVE:

- Family Leave for the: *(check appropriate boxes)*
 - Birth of my son or daughter
 - Placement of a child with me for adoption foster-care
- Family leave to care for:
 - spouse registered domestic partner child parent with a serious health condition
(An Acknowledgment of Family Relationship form must be attached.)
- Medical leave for my own serious health condition.
- Qualifying Exigency
- Military Care Leave

TYPE/DURATION OF LEAVE

I request consecutive leave reduced/intermittent leave schedule for the period beginning on _____ and ending _____

EMPLOYEE CERTIFICATION AND SIGNATURE

I hereby certify that the information given above is true and correct to the best of my knowledge. I understand that misrepresentation or omission of the reason for leave or any of the facts supporting the need for leave will result in denial of the leave. I also understand that any false answers or statements made knowingly by me on this request or in connection with an extension of this request, will be sufficient ground for disciplinary action up to and including discharge. I understand that I will be required to submit medical certification of a serious health condition or serious injury or illness to the Occupational Health Clinic within 15 calendar days of the date of this request for FMLA leave. I understand that if I fail to provide medical certification within 15 days, the start of my leave may be delayed until the certification is submitted. I understand that failure to provide medical certification will result in the denial of leave.

Signature _____ Date _____

ELIGIBILITY FOR FMLA

- The employee has been employed for at least 12 months (need not be consecutive) Yes No
- The employee has worked at least 1,250 hours in the past 12 months Yes No
- The employee has 12 weeks FMLA leave available
- The employee has 26 weeks FMLA leave available for military care leave
- The employee has _____ hours/ _____ weeks FMLA available
- The employee has _____ hours/ _____ weeks military care leave available
- The employee has no FMLA hours/weeks available, the leave of absence is not protected under the FMLA

Reviewed by: _____ Date _____
Signature

Title

Department Head: _____ Date _____