

**SANDUSKY COUNTY
PERSONNEL POLICY AND PROCEDURE MANUAL**

FAMILY AND MEDICAL LEAVE

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- A. Eligible Employees: Eligible employees may request time off for family and/or medical leave of absence with job protection and no loss of accumulated service provided the employee meets the conditions outlined in this policy and returns to work in accordance with the Family and Medical Leave Act of 1993. Employees are eligible for Family Medical Leave (FML) if they meet all of the following conditions:
1. Worked for the agency for at least twelve (12) non-consecutive months, or fifty-two (52) weeks.
 2. Actually worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) month period immediately prior to the date when the FMLA leave is scheduled to begin.
 3. Work at a location where the Employer employs fifty (50) or more employees within a seventy-five (75) mile radius.
 - a. The entitlement to FMLA leave for the birth or placement for adoption or foster care expires at the end of the twelve (12) month period following such birth or placement.
 - b. Spouses who are both employed by the agency are jointly entitled to a combined leave total of twelve (12) weeks (rather than twelve (12) weeks each) for the birth of a child, upon the placement of a child with the employees for adoption or foster care, and for the care of certain family members with serious health conditions.
 4. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation, etc.) during which other benefits or compensation are provided by the Employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermitting / occasional / casual employment qualified as "at least 12 months," 52 weeks is deemed to be equal to 12 months (CFR §825.110).
- B. Family and/or medical leave of absence: An approved absence available to eligible employees for up to twelve (12) weeks of unpaid leave per year under particular circumstances. Such leave may be taken only for the following qualifying events:
1. Upon the birth of an employee's child and in order to care for the child within one (1) year of birth.
 2. Upon the placement of a child with an employee for adoption or foster care within one (1) year of placement.
 3. When an employee is needed to care for a family member who has a serious health condition.

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4. When an employee is unable to perform the functions of his position because of the employee's own serious health condition.
5. Because of any qualifying exigency arising out of the fact that the spouse, child or parent of the employee is on covered active duty.

Military Caregiver Leave: An eligible employee who is the spouse, son, or daughter, parent, or next of kin of a covered servicemember or veteran shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

During the single 12-month period described above, an eligible employee shall be entitled to a combined total of 26 workweeks of leave.

C. Definitions:

Family Member: Spouse, child, parent or a person who stands "in loco parentis" to the employee.

Foster Care: means placement of a child with the employee through a formal agreement for substitute care requiring state action, rather than an informal arrangement to take care of another person's child.

Serious Health Condition: Any illness, injury, impairment, or physical or mental condition that involves; inpatient care or "continuing treatment".

Spouse: Husband or wife as defined by state law for purposes of marriage, including individuals married under common law marriage prior to October 10, 1991. (Common law marriage was abolished in Ohio on that date.)

Parent: The biological parent or person who stands or stood in place of a parent to the employee when the employee was a child. "In-laws" are not included.

Child: A biological, adopted, foster, or step child; a legal ward; or a child of an employee who is standing in the place of a parent for that child. Also may care for son or daughter age 18 or over when the adult child is incapable of self care because of mental or physical disability (as defined by the ADA).

Serious Health Condition: An illness, injury, impairment, or physical or mental condition which involves inpatient care or "continuing treatment."

Continuing Treatment: Continuing treatment by a health care provider which includes at least one (1) of the following:

1. A period of incapacity for more than three (3) consecutive calendar days which requires subsequent treatment relating to that condition on two (2) or more occasions or on one (1) occasion which results in a regimen of continuing treatment;
2. Incapacity due to pregnancy;

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3. A period of incapacity or treatment due to a chronic serious health condition, which may be episodic but includes periodic visits to a health care provider and continues over an extended period of time;
4. Any period of incapacity which is permanent or long term, due to a condition for which treatment may not be effective; (5) absence due to a series of treatments, e.g., after surgery, accident or for a condition which would result in an absence for at least three (3) consecutive days if left untreated.

Health Care Provider: Either: (1) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or, (2) any other person determined by the Secretary of Labor to be capable of providing health care services as further defined in the law.

Intermittent Leave: Leave taken in separate blocks of time due to a single qualifying reason.

Reduced Leave Schedule: Leave that reduces an employee's usual number of working hours per workweek or workday.

Covered Active Duty: The term covered "active duty" means during deployment (regular armed forces) or duty under a call or order to active duty under (reserves component of the armed forces) in support of a contingency operation requiring deployment to a foreign country.

Qualifying Exigency: A non-medical activity that is directly related to the covered military member's active duty or call to active duty status. For an activity to qualify as an exigency, it must fall within one (1) of nine (9) categories of activities or be mutually agreed to by the employer and employee. The nine (9) categories of qualifying exigencies are short-notice deployment (leave permitted up to seven (7) days if the military member receives seven (7) or less days' notice of a call to active duty), military events and related activities, certain temporary childcare arrangements and school activities (but not ongoing childcare), financial and legal arrangements, counseling by a non-medical counselor (such as a member of the clergy), rest and recuperation (leave permitted up to fifteen (15) days when the military member is on temporary rest and recuperation leave), post-deployment military activities, to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty, and additional activities.

Contingency Operation: The term "contingency operation" has the same meaning given such term in section 101(a)(13) of title 10, United States Code. A contingency operation is a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military operations, actions, or hostilities against an opposing force or is created by a definition of law.

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Covered Servicemember: The term "covered servicemember" means a member of the armed forces, including covered veterans, and members of the national guard or reserves, 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.

Outpatient Status: The term "outpatient status," with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to:

1. A military medical treatment facility as an outpatient; or
2. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Next of Kin: The term "next of kin," used with respect to an individual, means the nearest blood relative of that individual.

Serious Injury or Illness Current Service Member: The term "serious injury or illness," in the case of a member of the armed forces, including members of the national guard or reserves, means an injury or illness incurred by the member in the line of duty on active duty in the armed forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. Serious illness or injury also includes injuries or illnesses that existed before the beginning of the member's active duty and were aggravated by service in the line of duty on active duty in the armed forces.

Covered Veteran: For purposes of military caregiver leave, a covered veteran is an individual who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran and who is undergoing medical treatment, recuperation, or therapy for serious injury or illness that occurred any time during the five (5) years preceding the date of treatment.

Serious Injury or Illness Covered Veteran: The term "serious injury or illness" for covered veterans means an injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the armed forces and manifested itself before or after the member became a veteran and is:

1. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the armed forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank or rating; OR
2. A physical or mental condition for which the covered veteran has received VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based in whole, or in part, on the condition precipitating the need for caregiver leave; OR

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3. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
 4. An injury, including psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- D. Employee's Notice of Responsibility: Requests for FMLA leave must be submitted in writing at least thirty (30) days prior to taking leave or as soon as practicable prior to the commencement of the leave. If the employee fails to provide thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the leave may be denied until at least thirty (30) days from the date the employer receives notice. The employee must follow the regular reporting procedures for each absence.

FMLA requests must be submitted on a standard leave form prescribed by the Employer. The Employer will determine whether the leave qualifies as FMLA leave, designate any leave that counts against the employee's twelve (12) week entitlement, and notify the employee that the leave has been so designated.

When an employee needs foreseeable FMLA leave, the employee shall make a reasonable effort to schedule the treatment so as not to unreasonably interfere with the Employer's operations.

The request for leave shall include a brief description of the need for leave, identify who the leave is for, what the relationship the individual is to the employee (i.e., employee, spouse, parent, etc.), and the length of leave requested. Along with the request, the employee shall also furnish the appropriate SCAA with medical certification of the serious health condition from the physician/health care provider. The medical certification shall include the identity of the individual with the serious health condition, date on which the condition began, probable duration of the condition, and, if regarding the employee, whether the employee is unable to perform the essential functions of the employee's job. Based upon the request for leave and the medical provider's certification, the SCAA shall authorize or deny the request, or may, at County expense, require the employee to obtain a second medical opinion to confirm the leave request.

The SCAA may designate that an employee's leave qualifies for and will be counted as Family Medical Leave (FML). The SCAA must make such designation as soon as the Employer becomes aware the illness or injury does qualify for FML. The Employer's notification to the employee may be oral, provided the Employer confirms such designation in writing by no later than the next regular payday (unless less than a week remains until the next payday).

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- E. Initial Certification of Serious Health Condition: An employee requesting FMLA leave due to his family member's serious health condition must provide a doctor's certification of the serious health condition, which must designate that the employee's presence is reasonably necessary. Such certification shall be submitted at the time FMLA leave is requested, or if the need for leave is not foreseeable, as soon as practicable. An employee requesting FMLA leave due to the birth or placement of a child must submit appropriate documentation at the time FMLA leave is requested.

The Employer, at its discretion, may require the employee to sign a release of information so that a representative other than the employee's immediate supervisor can contact the medical provider. If the medical certification is incomplete or insufficient, the employee will be notified of the deficiency and will have seven (7) calendar days to cure the deficiency.

The Employer may require a second medical opinion prior to granting FMLA leave. Such opinion shall be rendered by a health care provider designated or approved by the Employer. If a second medical opinion is requested, the cost of obtaining such opinion shall be paid for by the Employer. If the first and second opinions differ, the Employer, at its own expense, may require the binding opinion of a third health care provider approved jointly by the Employer and the employee. Failure or refusal of the employee to submit to or cooperate in obtaining either the second or third opinions, if requested, shall result in the denial of the FMLA leave request.

Employees who request and are granted FMLA leave due to serious health conditions may be required to provide the Employer periodic written reports assessing the continued qualification for FMLA leave. Further, the Employer may request additional reports if the circumstances described in the previous certification have changed significantly (duration or frequency of absences, the severity of the condition, complications, etc.), or if the employer receives information that casts doubt on the employee's stated reason for the absence. The employee must provide the requested additional reports to the Employer within one (1) week.

- F. Certification for Leave Taken Because of a Qualifying Exigency: An employer may require that leave for any qualifying exigency specified in this section be supported by a certification from the employee that sets forth the following information:
1. A statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested. The facts must be sufficient to support the need for leave. Such facts should include information on the type of qualifying exigency for which leave is requested and any available written documentation which supports the request for leave; such documentation, for example, may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs.

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2. The approximate date on which the qualifying exigency commenced or will commence.
 3. If an employee requests leave because of a qualifying exigency for a single, continuous period of time, the beginning and end dates for such absence.
 4. If an employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency.
 5. If the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting (such as the name, title, organization, address, telephone number, fax number, and email address) and a brief description of the purpose of the meeting.
- G. Certification for Military Caregiver Leave: When leave is taken to care for a military member or covered veteran with a serious injury or illness, an employer may require an employee to obtain a certification completed by an authorized health care provider of the military member or covered veteran.
- H. Approval/Denial of Leave Request: The SCAA shall notify the employee orally or in writing within two (2) business days as to the approval or denial of the employee's FML request and that any sick or vacation leave shall be applied against the leave pursuant to the SCAA's policy. If the employee is notified orally, the oral notice shall be followed by written confirmation by the following payday. If the SCAA is late complying with the notice requirements, paid leave may only be applied against the employee's FML leave prospectively after the notice is given. The SCAA shall note the starting and ending dates of the leave, reinstatement procedures, and utilization of accumulated paid leave. The SCAA shall send a copy of the written notice to the Human Resource Office if the employee participates in any County Insurance benefits. . The SCAA shall notify the employee as to the status of insurance coverage and the employee's required contributions, if applicable.
- I. Utilization of Accumulated Paid Leave: Employees are required to utilize accumulated paid leave for all or part of the FML period. Accrued sick leave shall be utilized for conditions that are eligible for both sick leave and the Family Medical Leave Act. Unpaid FML shall be authorized when all eligible accrued paid leaves have been exhausted (e.g., sick leave and vacation). In other words, FML leave and paid leave for conditions that qualify under FML shall run concurrently. The entire Family Medical Leave shall not be tacked onto the end of the paid leave.
- J. Leave Period: A rolling twelve (12) month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the employer will compute the amount of leave the employee has taken under this policy, and subtract it from the twelve (12) weeks of available leave. The balance remaining is the amount the employee is entitled to take at the time of the request.

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For example, if an employee used four (4) weeks of FMLA leave beginning February 4, 2013, four weeks beginning June 1, 2013, and four weeks beginning December 1, 2013, the employee would not be entitled to any additional leave until February 4, 2014.

Employees may request intermittent or reduced leave schedules to accommodate medically necessary treatment in connection with a serious health condition. Intermittent or reduced leave may not exceed the total hours an employee would have worked during their regular twelve (12) week schedule. If intermittent or reduced leave is approved, the SCAA may require the employee to schedule the leave so as not to unduly disrupt the SCAA's operations or the employee may be placed in an alternate position which better accommodates the intermittent leave schedule.

- K. FMLA and Disability/Workers' Compensation: An employee who is eligible for FMLA leave because of his own serious health condition may also be eligible for workers' compensation if the condition is the result of workplace accident or injury. Regardless of whether the employee is using worker's compensation benefits, the Employer may designate the absence as FMLA leave, and count it against the employee's twelve (12) week FMLA entitlement if the injury or illness constitutes a serious health condition under the FMLA. In addition, as these may be compensated absences, if the employee is not eligible to use paid leave of any type (except as supplemental benefits, if applicable and requested by the employee), nor can the employer require him to do so, while the employee is receiving compensation from such a program.
- L. Insurance Coverage: Employees are entitled to maintain the same health benefits during FML. Employees are responsible for continuing to pay any share of the health care costs that they were responsible for prior to the leave.

Payment is due at the same time as it would be if made by payroll deduction (i.e., on pay day). Payments shall be submitted to the Sandusky County Commissioners Officer.

Should an employee fail to return to work after the employee's FML expires, the SCAA may recover from the employee the County's share of health insurance premiums paid during the period of unpaid FML Leave. Insurance premiums may NOT be recovered if the employee fails to return to work due to the continuation, recurrence or onset of a serious health condition or circumstances beyond the employee's control.

- M. Records: The Employer shall maintain the following records for three (3) years:
- basic payroll and identifying employee data;
 - dates of Family and Medical Leave taken (including paid leave taken);

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- hours of Family and Medical Leave if leave is taken in increments less than a full day;
- copies of all notices given to Employer or employees;
- copies of all documents describing benefits, policies, and practices regarding the taking of paid leaves and unpaid disability leaves;
- copies of employee requests for Family and Medical Leave;
- premium payments of employee benefits;
- records of any disputes between the Employer and employee over designation of Family and Medical Leave.

Records of medical certification of employees or their family members shall be kept confidential as they are "confidential medical records".

- N. Reinstatement: Employees returning from FML shall be placed in the same position or an equivalent position with equivalent pay, benefits, and conditions as the employee held prior to the leave.

Employees whose FML was for their own personal medical condition(s) must, prior to reinstatement, submit a medical certification to the SCAA regarding the employee's ability to return to work, subject to a second medical opinion as deemed necessary by the SCAA, or a third medical opinion as provided in the Family and Medical Leave Act.