

**DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT**

BULLETIN NO. 30

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FAMILY AND MEDICAL LEAVE ACT

1.0 POLICY

It is the policy of the District of Columbia Fire and Emergency Services Department to provide eligible employees requested leave under the District of Columbia's Family and Medical Leave Act (FMLA). Additional guidance regarding FMLA is contained in DPM Instruction 12-16.

2.0 PURPOSE

The purpose of this Policy Instruction is to establish an agency procedure for DC FEMS to make decisions regarding requests for approval for leave under the Family and Medical Leave Policy.

3.0 SCOPE

All employees who can establish that they are qualified to receive leave under the Family and Medical Leave Act.

4.0 DEFINITIONS

4.1 "Qualified Employee" means any individual who has been employed by the same employer for one (1) year without a break in service except for regular holiday, sick, or personal leave granted by the employer and has worked at least 1000 hours during the 12-month period immediately preceding the request for Family or Medical Leave.

4.2 "Family member" means (a) a person to whom the employee is related by blood, legal custody, or marriage; (b) a child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or (c) a person with whom the employee shares or has shared, within the last year, a mutual residence and with whom the employee maintains a committed relationship.

4.3 "Health care provider" means any person licensed under federal, state, or District law to provide health care services.

4.4 "Reduced leave schedule" means leave scheduled for a fewer number of hours than an employee usually works during each workweek or workday.

- 4.5 “Serious health condition” means a physical or mental illness, injury, or impairment that involves (a) inpatient care in a hospital, hospice, or residential health care facility; or (b) continuing treatment or supervision at home by a health care provider or other competent individual. Generally, any request for sick leave for more than three consecutive days is a serious medical condition.
- 4.6 “24-Month Period” means a rolling 12-month period measured backward from the date the employee uses any FMLA leave. For example, an employee who takes four four-week leave periods beginning on January 15, 2005, June 15, 2005, September 15, 2006 and November 15, 2006 would be eligible for sixteen weeks of FMLA leave beginning January 15, 2007.

5.0 REQUIREMENT

- 5.1 An employee shall be entitled to a total of 16 workweeks of family leave during any 24-month period for:
- 1) The birth of a child of the employee;
 - 2) The placement of a child with the employee for adoption or foster care;
 - 3) The placement of a child with the employee for whom the employee permanently assumes and discharges parental responsibility; or
 - 4) The care of a family member of the employee who has a serious health condition.
- 5.2 The entitlement to family leave under subsection (a) (1) through (3) of this section shall expire 12-months after the birth of the child or placement of the child with the employee.
- 5.3 In the case of a family member who has a serious health condition, the family leave may be taken intermittently when medically necessary.
- 5.4 Upon agreement between DC FEMS and the employee, family leave may be taken on a reduced leave schedule, during which the 16 work weeks for family leave may be taken over a period not to exceed 24 consecutive work weeks.
- 5.5 Except as provided in paragraphs (a) and (b) of this subsection, family leave may consist of unpaid leave.
- 1) Any paid family vacation, personal, or compensatory leave provided by an employer that the employee elects to use for family leave shall count against the 16 workweeks of allowable family leave provided in this chapter.
 - 2) If allowable, an employee may obtain the leave of another employee under certain conditions. If the conditions have been met, the employee may use the paid leave as family leave and the leave shall count against the 16 workweeks of family leave provided in this chapter.

- 3) Nothing in this section shall require DC FEMS to provide paid family leave.
- 5.6 If the necessity for leave under this section is foreseeable based on an expected birth or placement of a child, the employee shall provide the employer with reasonable prior notice of the expected birth or placement of a child with the employee.
 - 5.7 If the necessity for family leave under this section is foreseeable based on planned medical treatment or supervision, the employee shall
 - 1) Provide DC FEMS with 30 days prior notice of the medical treatment or supervision; and
 - 2) Make a reasonable effort to schedule the medical treatment or supervision, subject to the approval of the health care provider of the employee of family member, in a manner that does not disrupt unduly the operations of DC FEMS.
 - 5.8 If two family members are employees of DC FEMS, the department may limit to 16 workweeks during a 24-month period the aggregate number of family leave workweeks to which the family members are entitled; and DC FEMS may also limit to 4 workweeks during a 24-month period the aggregate number of family leave workweeks to which the family members are entitled to take simultaneously.

6.0 REQUIREMENTS FOR MEDICAL LEAVE

- 6.1 In addition to family leave, qualified employees are entitled to 16 weeks of medical leave within a 24-month period for their own serious medical condition.

7.0 PROCEDURES

- 7.1 An employee seeking leave under FMLA should inform the supervisor of the need for leave. If the supervisor believes that the leave may qualify as FMLA, the supervisor must give the employee a copy of DPM Instruction No. 12-16, with instruction to complete Attachment 3 and submit it to the Diversity/EEO Program Officer.
- 7.2 For all FMLA requests, DC Fire/EMS requires all employees to provide a certification from a health care provider of the employee or family member. The certification should contain:
 - 1) The date on which the serious health condition commenced;
 - 2) The probable duration of the condition;
 - 3) The appropriate medical facts within the knowledge of the health care provider that would entitle the employee to take leave under this policy; and
 - 4) For purposes of **medical leave**, a statement that the employee is unable to perform the functions of the employee's position. The certification should

- provide an explanation as to the extent to which the employee is unable to perform the functions of the employee's position; or
- 5) For purposes of **family leave**, an estimate of the amount of time that the employee is needed to care of the family member.
- 7.3 If there is doubt as to the validity of the certification, DC FEMS may require that the employee obtain, at the expense of DC FEMS, the opinion of a second health care provider approved by DC FEMS, in regard to any information required to be certified.
- 7.4 If the second opinion provided under this subsection differs from the original certification provided, the employee may obtain the opinion of a third health care provider mutually agreed upon by DC FEMS and the employee, in regard to any information required to be certified under this section. DC FEMS shall pay the cost of the opinion of the third health care provider.
- 7.5 The opinion of the third health care provider in regard to the information certified under this section shall be final and binding on DC FEMS and employee.
- 7.6 The health care provider approved or mutually agreed upon under this section will not be retained on a regular basis by DC FEMS or otherwise bear a close relationship to DC FEMS or the employee that would give the appearance that the certification is biased.
- 7.7 DC FEMS may require that the employee obtain subsequent recertification on a reasonable basis.
- 7.8 Certification information requested under this section shall be used only to make a decision in regard to the provisions of this chapter. DC FEMS shall keep any medical information obtained from a certification request confidential.
- 7.9 Upon return to duty as a result of medical leave under FMLA, the employee must submit a certification of fitness from his/her physicians to return to work. Uniformed firefighters must submit this certification to the Police and Fire Clinic for clearance to return to duty.

8.0 RESPONSIBILITY

- 8.1 The Diversity/EEO Program Manager is responsible for the general administration of this Policy Instruction. When the Diversity/EEO Program Manager receives a request for FMLA, he or she shall:
- 1) Inform the appropriate Assistant Fire Chief that the request has been made;
 - 2) Consult with the appropriate Assistant Fire Chief regarding the request;

- 3) Make a decision as quickly as possible and inform the appropriate Assistant Fire Chief of the decision in writing. The decision to grant or deny FMLA shall be transmitted down the chain of command to the employee's first level supervisor.
- 8.2 The Diversity/EEO Program Manager is responsible for making an initial decision regarding requests for approval or disapproval of Family and Medical Leave. If the employee is not satisfied with the decision of the Diversity/EEO Program Manager, the employee may make an appeal to the Fire/EMS Chief. The decision of the Fire/EMS Chief shall be final. If an employee believes that the agency has violated FMLA, he or she may file a complaint with the District of Columbia's Office for Human Rights (OHR).
 - 8.3 Once an employee has been approved for FMLA, the respective timekeepers shall mark all FMLA leave as such.

9.0 GRANTING FMLA LEAVE

- 9.1 Diversity/EEO Program Manager should first determine if the requesting employee's request for leave or absence is due to the employee's serious health condition or the employee's responsibility to provide care to a family member with a serious health condition, or for the birth or adoption of a child or care of a new born.
- 9.2 To the extent practicable, the requesting employee shall be notified within fifteen calendar days of receipt of a complete application. Notwithstanding any other law, if the recipient employee is eligible for leave under FMLA, the leave shall be granted.

10.0 EFFECTIVE

This policy will become effective immediately.

11.0 EXCEPTIONS

None.