

**ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE
1607.4, FAMILY AND MEDICAL LEAVE ACT**

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| RESCINDS: | 1607.3 |
| DISTRIBUTION: | ALL EMPLOYEES |
| REVIEW RESPONSIBILITY: | FISCAL MANAGEMENT SECTION MANAGER |
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| CHIEF OF POLICE: | JOHN W. MINA |

CONTENTS:

1. DEFINITIONS
2. GENERAL PROVISIONS
3. PROCEDURE FOR REQUESTING LEAVE
4. FORMS
5. RETURNING TO WORK

POLICY:

It is the policy of the Orlando Police Department to comply with the provisions of the Family Medical Leave Act, City Policy 808.25, and collective bargaining agreements.

1. DEFINITIONS

Family Leave: The Federal Family and Medical Leave Act (FMLA) provides that eligible employees must be allowed to take up to a maximum of twelve (12) work weeks during any 12-month period, which may consist of paid and/or unpaid leave, that can be used for:

- a. The birth of a child of the employee and in order to care for such child.
- b. The placement of a child with the employee for adopted or foster care.
- c. A serious health condition that makes the employee unable to perform the functions of the position of such employee.
- d. To care for the child, spouse, or parent of the employee if such child, spouse, or parent has a serious health condition, or any other condition consistent with statutory requirements.
- e. Qualifying exigency – when employee’s spouse, child, or parent is on active duty or is notified of an impending order to active duty.

Family Leave for Military Illness/Injury Recuperation: A period of up to 26 weeks of leave during a 12-month period to care for a spouse, child, parent, or next of kin who is a service member undergoing medical treatment, recuperation or therapy, is on out-patient status, or is on the temporary disabled retired list for a serious injury or illness.

Qualifying Exigency:

- a. Short-notice deployment
- b. Military events and related activities
- c. Childcare and school activities
- d. Financial

Serious Health Condition: An illness, injury, impairment, physical or mental condition that involves significant medical care such as:

- a. An illness or injury that involves an overnight stay in a hospital, hospice or residential medical care facility, including any subsequent treatment.
- b. Illness or injury that causes more than three calendar days of incapacity plus at least two treatments by a health care provider.

- c. Illness or injury that causes more than three calendar days of incapacity plus at least two treatments by a health care provider and a regimen of continuing treatment under a health care provider's supervision for chronic serious health conditions, twice per year.
- d. Any period of incapacity due to pregnancy/prenatal care, or a chronic serious health condition or a permanent or long-term health condition, or to receive medical treatment for restorative surgery or a condition that will likely result in a period of incapacity of more than three days.

Serious health conditions do NOT usually include routine physical examinations, eye examinations, dental examinations, flu, cold, headache, earaches, upset stomachs, or minor ulcers as well as cosmetic treatments (such as for acne or plastic surgery).

Domestic Violence Leave: A period of up to three days during any 12-month period, which may consist of paid and/or unpaid leave, that can be used for:

- a. Seeking any injunction against domestic violence
- b. Obtaining medical care or mental health counseling
- c. Obtaining services from a victim-services organization
- d. Making the employee's home secure from or to escape from the perpetrator of domestic violence
- e. Seeking legal assistance or attending court proceedings related to domestic violence

Eligibility for Family Leave: An employee must have worked for the City for at least six months preceding the leave.

The provisions of City Policy 808.25 shall apply to all OPD employees unless there is a conflicting provision in an employee's applicable collective bargaining agreement.

2. GENERAL PROVISIONS

2.1 DEFINITIONS

Relevant definitions found in City Policy 808.25 are hereby adopted for the purpose of this procedure.

2.2 SWORN PERSONNEL

2.2.1 LIEUTENANTS

Subject to City Policy and applicable Collective Bargaining Agreement.

2.2.2 SERGEANTS AND OFFICERS

Subject to the Collective Bargaining Agreement, employees requesting leave under the FMLA and in excess of 10 consecutive work days may request leave without pay in lieu of accrued paid leave.

2.2.3 SERGEANTS AND OFFICERS EXEMPT FROM THE COLLECTIVE BARGAINING AGREEMENT

Subject to City Policy 808.25, or successor, or any relevant provisions of the contract.

2.3 PROFESSIONAL STAFF

2.3.1 PROFESSIONAL STAFF SUBJECT TO BARGAINING UNIT CONTRACT

As provided in City Policy 808.25, or successor, and any relevant provisions of the contract.

2.3.2 PROFESSIONAL STAFF NOT SUBJECT TO BARGAINING UNIT CONTRACT

As provided in City Policy 808.25, or successor, and any relevant provisions of the contract.

3. PROCEDURE FOR REQUESTING LEAVE

3.1 EMPLOYEE'S RESPONSIBILITIES

3.1.1 CERTIFICATION FOR THE EMPLOYEE'S SERIOUS HEALTH CONDITION

If the employee is requesting Family Leave for his or her own serious health condition, the employee is responsible for having his or her health care provider complete the Certification of Health Care Provider for Employee's Serious Health Condition Form WH-380-E. This form can be found online on the Department of Labor's website at <http://www.dol.gov/whd/forms/WH-380-E.pdf>.

3.1.2 CERTIFICATION FOR THE FAMILY MEMBER'S SERIOUS HEALTH CONDITION

If an employee is requesting FMLA leave for the employee's care of a child, spouse, or parent with a serious health condition, the employee is responsible for having his or her health care provider complete the Certification of Health Care Provider for Family Member's Serious Health Condition Form WH-380-F. This form can be found online on the Department of Labor's website at <http://www.dol.gov/whd/forms/WH-380-F.pdf>. This form must be submitted to the employee's supervisor at least 30 days in advance of commencing leave, if possible, but not less than 15 days from the first day of leave as a result of an FMLA-eligible event listed at the beginning of this policy. Only in unforeseen circumstances should less than 30 days notice be given for FMLA leave requests.

If an employee has unforeseen circumstances with less than 30 days notice, the employee shall be required to have his or her health care provider complete the appropriate Certification of Health Provider Form. The employee shall also have his or her supervisor fill out a Notice of Eligibility and Rights & Responsibilities Form with the appropriate information. A copy of the Notice of Eligibility and Rights & Responsibilities Form WH-381, which can be found at <http://www.dol.gov/whd/forms/WH-381.pdf>, shall be sent to the appropriate bureau commander and Labor Relations for retention. The employee shall send the appropriate Certification of Health Provider form to Labor Relations.

If the employee's family leave is approved, he or she shall provide a memorandum via chain of command to the bureau commander stating whether he or she will be taking personal leave, sick leave, etc., for Family Leave purposes. The bureau commander will forward the memo to OPD Payroll so that it is recorded as such and charged toward "Family Leave." An employee may be authorized leave without pay; however, the employee is required to exhaust all annual leave, vacation leave, personal leave, and sick leave first. If the employee's Family Leave will include a leave of absence without pay, he or she must contact the Employee Benefits Section of the Human Resources Division to assure continuance or receipt of appropriate benefits. Additionally, the employee must comply with OPD and City policy regarding obtaining prior authorization for a leave of absence without pay.

3.2 SUPERVISOR AND BUREAU COMMANDER RESPONSIBILITIES

If an employee asks for unscheduled leave, the supervisor must determine if the unscheduled leave is related to FMLA leave for the employee's care of a child, spouse, or parent with a serious health condition, or the employee's own serious health condition. If so, the appropriate Certification of Health Care Provider form must be provided.

The employee's immediate supervisor or designee will review the appropriate Certification of Health Care Provider form. The supervisor will then direct the employee to send the form directly to the City of Orlando Labor Relations Section, as the form is considered a medical record. No photocopies may be made by the Police Department or kept on file at OPH.

If supervisors have any questions regarding the FMLA process or procedure, they should call Labor Relations at 407.246.2156. It is not the employee's choice as to whether leave is charged to FMLA. If an employee requests unscheduled leave, the supervisor must determine whether the unscheduled leave is related to a Family Medical Leave qualifying event by asking the employee, or otherwise determining from the facts. If the Family Medical Leave qualifying event is the type subject to a Certification of Health Care Provider, such form must be provided. If the requested leave is for FMLA purposes, it must be recorded as such and the employee must be notified.

The Labor Relations Section will then determine whether the requested leave is an FMLA qualifying event. Labor Relations will then notify the employee's Bureau Commander of the determination. Within two working days, the employee's Bureau Commander will notify the employee, in writing, by sending a copy of the FMLA Designation Notice Form WH-382 (available at <http://www.dol.gov/whd/forms/WH-382.pdf>) that the leave is approved, and that it is considered FMLA qualified leave and will be counted towards the employee's FMLA annual 12-week entitlement. The notice must be provided within two working days of the request for, or knowledge of use of, leave for FMLA purposes. The Bureau Commander must notify the employee in writing that the leave will be counted towards the employee's FMLA 12-week entitlement.

If an employee is absent from work and it is determined that the absence is an FMLA qualifying event, the leave already taken shall be designated as FMLA and the employee must be notified in writing by sending a copy of the FMLA Designation Notice Form to the employee. If approved, the Bureau Commander shall forward a copy of the notification, the Leave Request Form, and the original Certification of Health Care Provider form to Labor Relations in a sealed, confidential envelope. Labor Relations will forward the package to Florida Hospital for inclusion in the employee's medical file. The original FMLA Designation Notice Form shall be retained on file by the employee's respective bureau commander.

Consecutive absences lasting more than three days (ten consecutive days for bargaining unit officers and sergeants), or sick/personal leave for a serious health condition, will automatically be counted toward the employee's annual family leave entitlement. Should an employee's unforeseen illness or injury cause the employee to have consecutive absences lasting more than three days, the employee's supervisor shall provide the employee with a Notice of Eligibility and Rights & Responsibilities Form WH-381 advising that he or she is eligible for FMLA, providing eligibility requirements are met. This form shall either be made in person or via return receipt mail. The employee will be provided with this form within five business days. If the employee requests a Certification of Health Care Provider Form, the employee has at least 15 calendar days from receipt to have his or her health care provider complete the form. A copy of the completed Notice of Eligibility and Rights & Responsibilities form shall be sent to the employee's bureau commander and Labor Relations for retention.

The supervisor of the employee who is on Family Leave must make sure that the employee's time off is recorded in the comment section as "Family Leave." It is not the employee's choice as to whether the leave is charged to FMLA.

3.3 APPEALS

If the Family Leave Request is denied, the employee may appeal to the Human Resources Director.

3.4 FAMILY LEAVE ENTITLEMENT

Effective July 1, 2008, the Florida Legislature created a new family leave entitlement. Employees are permitted to take up to three days of leave during any 12-month period if the employee or a family member or household member of the employee is the victim of domestic violence.

All sick leave, management time, personal and vacation leave, if eligible as provided under City Policy and Procedure 808.16 - Sick Leave, 808.15 – Personal Leave, or applicable bargaining agreement, must be taken for domestic violence leave purposes before domestic violence leave without pay may be requested/taken.

Except for cases of imminent danger, the employee must provide his or her supervisor with advanced notice of the need for domestic violence leave in accordance with the appropriate work area, division, or departmental leave notice policies. The supervisor may require appropriate documentation of the act of domestic violence for which the leave is needed.

Information regarding the need for domestic violence leave and the circumstances/documentation regarding such leave **must be confidential by the supervisor/Department**. All documentation regarding domestic violence leave must be forwarded to Labor Relations for retention purposes. The employee or supervisor is not required to fill out any FMLA forms for domestic violence leave.

4. FORMS

4.1 EMPLOYEE FORMS

The employee requesting Family Leave is responsible for having his or her health care provider complete either the Certification of Health Provider for Employee's Serious Health Condition Form WH-380-E or the Certification of Health Provider for Family Member's Serious Health Condition Form WH-380-F only. Once reviewed by his or her supervisor, the employee sends the original form to Labor Relations.

The employee requesting Family Leave shall send a memo via his or her chain advising the use of sick leave, management leave, personal, or vacation leave while on Family Leave.

4.2 SUPERVISOR FORMS

The supervisor of the employee requesting Family Leave is required to fill out the Notice of Eligibility and Rights & Responsibilities Form WH-381 if the employee is absent more than three days or the employee has unforeseen circumstances where he or she is requesting Family Leave with less than a 30-day notice. A copy of the completed form shall be sent to the appropriate bureau commander and Labor Relations for retention.

4.3 BUREAU COMMANDER FORMS

Bureau commanders are responsible for filling out the Designation Notice Form WH-382 and sending a copy to the requesting employee once he or she receives notice from Labor Relations that Family Leave has been approved. The bureau commander shall keep the original of this notice for retention and send a copy to the employee and Labor Relations.

The memorandum from the requesting employee advising what leave he or she will be using while out on Family Leave will be sent to Payroll.

5. RETURNING TO WORK

Personnel taking FMLA for a personal medical condition or illness are subject to a fitness for duty examination prior to returning to full duty, or may have to provide documentation from their physician releasing them to full duty. For non-duty related illnesses or injuries, employees will not be sent to the City health care provider, unless a full fitness for duty is required, and is approved through the affected employee's Bureau Commander.

While the employee is on leave, he or she will be required to furnish the Department with periodic reports every 30 days of the status and intent to return to work. If the circumstances of the employee's leave changes, and he or she is able to return to work earlier, notification to the Department is required at least two work days prior to the intended report to work date.