



**FMLA Quick Reference Guide for HBRs**

5/11/12

<b>Eligibility</b>	<ul style="list-style-type: none"> <li>• Permanent, Probationary, Trainee &amp; Time-Limited appointments</li> <li>• Employees must have 12 months of state service</li> <li>• Employees must have been in pay status 1040 hrs during the preceding 12 months</li> <li>• 12 months of state service &amp; 1040 hrs do not have to be consecutive – Prior service will be considered</li> <li>• Temporary &amp; Contractual employees are eligible for FMLA provided they have 12months state service &amp; at least 1250 hrs of pay status during the preceding 12 months</li> </ul>
<b>Qualifying Events</b>	<ul style="list-style-type: none"> <li>• Birth</li> <li>• Adoptions</li> <li>• Foster Care</li> <li>• Serious Health Condition of employee, spouse, parent or child</li> <li>• Chronic Health Condition of employee, spouse, parent or child</li> <li>• Military Exigency Leave</li> <li>• Military Caregiver Leave</li> </ul>
<b>Entitlement</b>	<ul style="list-style-type: none"> <li>• 12 weeks or 480 hrs of paid or unpaid leave, prorated for part time employees, for a qualifying FMLA condition</li> <li>• 26 workweeks of leave during a single 12 month period for a family member caring for a covered military service member</li> <li>• Guaranteed paid health insurance premiums for the employer portion of employee only coverage during the FMLA leave</li> <li>• Same or like position, pay, shift, etc. upon returning to work</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>• Employee requests FML or management designates as appropriate</li> <li>• FML eligibility is verified &amp; employee notified of eligibility status</li> <li>• If eligible, employee is notified in writing of FML designation</li> <li>• If not eligible, employee is notified in writing when eligibility will be met</li> <li>• FMLA Event is created in SAP by the FMLA Event Maintainer using transaction code PTFMLA</li> <li>• Absences are applied to the FMLA event in SAP by the Leave Administrator or FMLA Event Maintainer</li> </ul>



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	<p>using transaction code PTFMLA (Refer to the TM-310 FMLA Guideline for step by step procedures on creating the FML event in SAP)</p> <ul style="list-style-type: none"> <li>• Time/Leave Administrator or LOA Case Manager exhausts applicable leave in CAT2 in SAP</li> <li>• If the employee remains out on leave of absence for 15 or more calendar days counted on their standard work schedule &amp; FML still applies, the employee must be placed on LOA –FML status</li> </ul>
<b>Forms</b>	<ul style="list-style-type: none"> <li>• US DOL Certification of Health Care Provider form (Form WH-380E) – for employee’s condition</li> <li>• US DOL Certification of Health Care Provider form (Form WH-380F) – for family member’s condition</li> <li>• US DOL Certification of Health Care Provider form (Form WH-380E) – for employee’s condition</li> <li>• US DOL WH381 – Notice of Eligibility &amp; Rights &amp; Responsibilities under FMLA</li> <li>• US DOL WH384 – Certification of Qualifying Exigency Leave for Military FMLA</li> <li>• US DOC WH385 – Certification of Injury/Illness for a Covered Service member for Military FMLA</li> <li>• FML Designation / FML Provisional Designation Letter</li> <li>• Leave of Absence (LOA) Request form</li> </ul>
<b>Physician’s Certification</b>	<ul style="list-style-type: none"> <li>• Medical certification in forms other than the US DOL Certification of Health Care Provider forms can be accepted as long as the required information is included</li> <li>• Diagnosis can help establish if the event qualifies as FMLA</li> <li>• In the absence of a diagnosis, the event must follow the definitions of serious or chronic health condition to qualify for FML</li> <li>• Beginning date of the “condition” required to establish the beginning date of the FMLA 12-month period</li> <li>• Beginning &amp; Ending date of disability needed to determine duration of incapacity</li> <li>• 2<sup>nd</sup> &amp; 3<sup>rd</sup> opinions requested to verify the validity of medical certifications are at the expense of the employer</li> <li>• Employee has 15 calendar days to provide requested medical certification</li> <li>• Manager may request re-certification no more often than every 30 calendar days or at the end of the minimum duration of incapacity</li> <li>• For lifetime or unknown conditions management can request medical re-certification every 6 months</li> </ul>
<b>FML Notifications</b>	<ul style="list-style-type: none"> <li>• Employer must provide written notice to employee detailing expectations, requirements &amp; consequences of failure to meet FML obligations – Form WH381</li> <li>• If the employee provides advance notice of FMLA leave, the employee must be notified of eligibility/approval status before the leave begins</li> <li>• For unforeseeable events, once the employer has knowledge that the leave taken is for an FMLA event,</li> </ul>



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	<p>the employee must be notified within 5 days of designating FMLA</p> <ul style="list-style-type: none"> <li>• FMLA designations must be confirmed in writing no later than the following payday</li> <li>• FMLA may not be designated retroactively (Consult with the DPS FMLA Program Manager for exceptions)</li> <li>• FMLA may not be designated after the employee has returned to work</li> <li>• Once FMLA has been formally designated, it cannot be revoked (Consult with the DPS FMLA Program Manager for exceptions)</li> <li>• FMLA shall be provisionally designated if the employer knows the reason for leave but has not been able to confirm the leave qualifies for FMLA</li> <li>• Provisional FMLA designations can be revoked if appropriate medical certification is not provided</li> </ul>
<p><b>Recording Leave</b></p>	<ul style="list-style-type: none"> <li>• Leave may be with or without pay</li> <li>• Use of paid leave must be decided upon initial request of leave &amp; used prior to LOA/LWOP-FML</li> <li>• Any leave granted to temporary or contractual employees shall be without pay</li> <li>• Comp leave used while exhausting leave for a FML event is designated as FML</li> <li>• Injury leave (9685) used for salary continuation shall NOT be designated as FML</li> <li>• Injury absence WC (9680) shall NOT be designated as FML</li> <li>• Non-pay status due to Workers Comp is NOT designated as FML</li> <li>• Holidays (9300) used while exhausting leave for an FML event are designated as FML (Exception: Holidays used during a partial week absence)</li> <li>• Leave exhausted for Short Term Disability is designated as FML</li> <li>• FML leave may be used on an intermittent basis</li> <li>• Not all absences during an FMLA event are FMLA relevant</li> </ul>
<p><b>Expiration of FMLA Period</b></p>	<ul style="list-style-type: none"> <li>• Once the FMLA 480 hrs or 26 week entitlements have been exhausted, the employee is no longer protected under the FMLA regulations</li> <li>• State sponsored health insurance continuation will cease at that point &amp; employees are responsible for paying the full premium to continue health coverage</li> <li>• The FMLA Entitlement Period will end when the 12-month rolling period has expired, regardless if there is a FMLA balance.</li> <li>• SAP will automatically terminate the FMLA period when 12-month rolling period has expired</li> <li>• If the employee remains on LOA/LWOP, once all FML entitlements are exhausted, a Revised DC154L should be submitted to change the reason for LOA to Illness</li> </ul>



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<b>Employer Responsibilities</b>	<ul style="list-style-type: none"><li>• Agency management establishes policy</li><li>• Facility management/designee determines employee notification</li><li>• Facility management/designee determines employee eligibility, leave entitlement, leave options</li><li>• Facility management/designee designates as applicable</li><li>• Facility management/designee notifies employee in writing of designation or eligibility status</li><li>• Agency maintains health insurance for eligible employees</li><li>• Agency maintains equivalent job</li><li>• Facility maintains FML records for 3 years</li></ul>
<b>Employee Responsibilities</b>	<ul style="list-style-type: none"><li>• Provides verbal notice of foreseeable FMLA leave - at least 30 days notice</li><li>• Provides verbal notice of unforeseeable FMLA leave - employee to follow agency's customary call-in procedures</li><li>• Provides supporting medical documentation for absence</li></ul>
<b>Appeal Options</b>	<ul style="list-style-type: none"><li>• State Personnel Commission</li><li>• US Dept. of Labor, Wage &amp; Hour Division</li><li>• Private Lawsuit</li></ul>
<b>Policy Reference</b>	<ul style="list-style-type: none"><li>• The Guidelines above are intended as a quick reference guide and are not all-inclusive.</li><li>• Exceptions may apply.</li><li>• Please refer to OSP Personnel Policy and the DPS Central HR FML Program Manager for the most current policy information.</li></ul>