

## COMPENSATION AND BENEFITS

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### FAMILY AND MEDICAL LEAVE (FMLA)

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**Purpose:** The purpose of this policy is to establish procedures regarding a member's Family and Medical Leave of Absence due to a serious health condition, to care for a family member with a serious health condition, the birth and/or care of a son or daughter and to care for a newborn child, or the placement of a son or daughter with a member for adoption or foster care.

**Policy Statement:** It is the policy of the North Little Rock Police Department to provide medical leave for members in accordance with the *Family and Medical Leave Act of 1993*.

**Summary of Changes:** New Format.

**Definitions:**

**Immediate family** for this policy directive is a child, parent or spouse.

**Child** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under the age of 18, or age 18 or older and "incapable of self-care because of mental or physical disability."

**Parent** means a biological parent or an individual who stands or stood in loco parentis to a member when the member was a child. The term does not include parents "in-law."

**Spouse** means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the member resides, including common law marriage in States where it is recognized.

**Serious Health Condition** for purposes of FMLA, means an illness, injury, impairment, or physical or mental condition that involves one of the following: In patient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity, or subsequent treatment in connection with such inpatient care or continuing treatment by a health care provider.

**Procedure:**

**1 Eligibility for FMLA**

1.1 Any member who has been employed at least 12 months (these months need not have been consecutive), and has actually worked at least 1,250 hours during the twelve (12) months immediately preceding the date of the commencement of the leave is eligible for up to twelve (12) weeks of unpaid FMLA leave.

1.1.1 Hours worked does not include time paid but not "worked", i.e., vacation, personal or sick leave, holidays, workers compensation leave; nor does it include unpaid leave of any kind or periods of layoff.

**2 FMLA Qualifying Events**

2.1 The birth of a son or daughter and to care for the newborn child.

2.1.1 Circumstances may require that leave begin before the actual date of the birth of a child.

2.1.2 An expectant mother may take FMLA before the birth of the child for prenatal care, or if her condition makes her unable to work.

2.1.3 Leave for the birth of a child must be concluded within twelve (12) months after the birth.

2.2 The placement of a child with the member for adoption or for foster care.

2.2.1 Leave can begin before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.

2.2.2 Leave for adoption or foster care must be concluded within (12) months after the event.

2.3 The member is needed to care for the member's spouse, child, or parent with a serious health condition.

2.3.1 For purposes of confirmation of family relationship, the City may require the member giving notice of the need for leave to provide reasonable documentation or statement of family relationship.

2.3.2 This documentation may take the form of single statement from the member, of a child's birth certificate, or a court document.

2.3.3 The employer is entitled to examine documentation, but the member is entitled to the return of the official document submitted for this purpose.

2.4 A serious health condition that makes the member unable to perform the functions of the member's job

### **3 Serious Health Conditions**

- 3.1 A member who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.
- 3.2 The City may, in requiring certification from a health care provider, require that the member's health care provider be provided a statement of essential functions of a member's position for the health care provider to review.

### **4 Procedures for FMLA Leave**

- 4.1 Members giving notice of the need for medical leave must provide sufficient information to enable the Division Commander to determine whether the member is eligible for leave under FMLA.
- 4.2 The Chief or designee may designate leave, paid or unpaid, as qualifying for FMLA and must notify the employee of designation. This notification can be given orally, but must be confirmed in writing.
- 4.3 When the need for leave is planned and/or foreseeable, the member is required to provide written notice thirty (30) days prior to any foreseeable FMLA leave. The member should consult with the Division Commander or designee and make a reasonable effort to schedule the leave so as not to disrupt the unit or division's operation.
- 4.4 In some cases unforeseen circumstances or emergencies prevent the thirty (30) day notification for FMLA leave. When the leave is immediate, the member (or a member's representative) should verbally notify the Division Commander as soon as possible.
- 4.5 When FMLA is requested by the member, the Division Commander or designee will provide the member with a FMLA packet which includes the following forms: *Notice to Employees, Family & Medical Leave Request and Designation Form, Certification of Health Care Provider, Authorization for Release of Health Information, and Medical Release Return to Duty*. All forms can be found on DHQ.
- 4.6 The member must complete the *Notice of Need for Family or Medical Leave* section of the *FMLA Request and Designation* form and forward it through the Chain of Command to the Division Commander.
- 4.7 The Division Commander will notify the Chief of Police, and the Professional Development Division regarding the FMLA leave request.
- 4.8 Once the Division Commander reviews the request, he/she will determine if it meets the criteria for designation of FMLA leave. The Division Commander will complete *the Employer's Response to Notice of Need for Family or Medical Leave* section of the form and meet with the member to review the conditions of the leave. The member's Division Commander will sign the acknowledgment and return a copy to the member to show receipt. The member will then sign the *Employee Acknowledgment and Receipt* section.
- 4.9 If the member is requesting FMLA leave for a serious health condition, the member will have the attending physician complete the *Certification of Health Care Provider* form and forward it to the Division Commander within fifteen (15) days after the request is made.
  - 4.9.1 Members who are in disagreement over paid or unpaid leave being designated or not designated as FMLA leave may appeal to the Chief of Police.
- 4.10 A member while on FMLA will be required to provide a status report or medical evaluation every thirty (30) days to the Division Commander.
- 4.11 A member will be required to present a *Medical Release to Return to Work* or a medical evaluation form from their medical provider prior to return to duty, if the member is returning from any medical leave of four (4) days or longer.

### **5 Substitution of Paid Leave Benefits for Unpaid FMLA Leave**

- 5.1 Accumulated sick leave, annual leave and discretionary leave benefits, respectively, will be substituted and be charged concurrently with unpaid FMLA entitlements for a qualifying member, other than on-the-job injuries.
  - 5.1.1 Sick leave may be substituted to care for a seriously-ill immediate family member or for the member's own serious health condition. (The City's existing five (5) day limit per year on paid sick leave for illness of a family member will still apply.) If such paid leave benefits for sickness in family (5 days) become exhausted, any accrued paid annual leave and personal leave shall be substituted for unpaid leave.
- 5.2 Members who are on FMLA leave and are qualified for temporary light duty or modified duty assignment will no longer be eligible for paid leave benefits when they refuse a temporary light or modified duty assignment. They may remain off work on unpaid FMLA leave until their full twelve weeks is exhausted.

### **6 Health Insurance and other Deductions**

- 6.1 The City will maintain group health insurance coverage, including family coverage, for a member on FMLA leave on the same terms as if the member continued to work, i.e., a member must pay the usual percentage of any family coverage.

- 6.1.1 The City's obligation to maintain health benefits under FMLA stops if and when a member informs the employer of their intent not to return to work at the end of the leave period, or if the member fails to return to work when the FMLA leave entitlement is exhausted.
- 6.2 While a member is on paid leave, the City will continue other payroll deductions from member elective insurance coverage or other elective payroll deductions, such as contributions to the Credit Union or the Deferred Compensation program.

**7 Conflicts in Policies**

- 7.1 When conflicts arise in the application of the existing policy directive and/or State laws or FMLA regulations, FMLA regulations will prevail.
- 7.2 It is the intent of the North Little Rock Police Department to comply with any changes made to FMLA by Congress or the Department of Labor.

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Mike Davis  
Chief of Police