

CITY OF SAN ANTONIO



Administrative Directive	AD 4.20 Family and Medical Leave Act (FMLA)
Procedural Guidelines	Guidelines to ensure consistent application of the FMLA and applicable revisions
Department/Division	Human Resources, Benefits Division
Effective Date	August 5, 1993
Revision Date(s)	January 15, 2009; March 15, 2010; September 26, 2014; March 5, 2015
Review Date(s)	March 5, 2015
Project Manager	HR Leave Administrator

Purpose

The Family and Medical Leave Act (FMLA) is a federal law passed in 1993. It provides *eligible employees* unpaid job-protected leave in the event an employee is absent for qualified personal or family medical condition, and for attending to the affairs of a covered Military Servicemember. The purpose of this administrative directive is to inform employees of their rights under FMLA and establish procedures to comply with the regulation.

Policy

It is the policy of the City of San Antonio (City) to fully comply with the provisions of the Family Medical Leave Act and its amendments.

FMLA makes it unlawful for any employer to: Interfere with, restrain, or deny the exercise of any right provided under FMLA; and discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Policy Applies To

<input type="checkbox"/> External & Internal Applicants	<input checked="" type="checkbox"/> Temporary Employees on City Payroll
<input checked="" type="checkbox"/> Full-Time Employees	<input type="checkbox"/> Volunteers
<input checked="" type="checkbox"/> Part-Time Employees	<input checked="" type="checkbox"/> Grant-Funded Employees
<input checked="" type="checkbox"/> Paid and Unpaid Interns	<input checked="" type="checkbox"/> Police and Fire Academy Trainees
<input checked="" type="checkbox"/> Uniformed Employees if the subject is not covered under Collective Bargaining Agreements	

Definitions

<u>Eligible Employee</u>	All full-time, part-time and temporary employees on the City payroll who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the 12 month period prior to the commencement of the leave.
<u>12 Month Period</u>	A “rolling” 12 month period is measured backwards from the date an employee uses family and medical leave. Each time an employee takes family and medical leave, the remaining leave entitlement would be any balance of the 12 weeks or 26 weeks if taking a Military Servicemember Family Leave, that has not been used during the immediately preceding 12 months. <i>(Example: If an employee takes four (4) weeks beginning February 1, 2014, four (4) weeks beginning June 1, 2014, and four weeks beginning December 1, 2014, the employee would not be entitled to any additional leave until March 1, 2015. However, beginning on March 1, 2015, the employee would be entitled to four (4) weeks of leave. On June 30, 2015 the employee would be entitled to an additional four (4) weeks, etc.).</i>
<u>Next of Kin</u>	Term used to identify family members eligible to take Military Servicemember Family Leave who are the nearest blood relative of the injured service member.

<p><u>Qualified Family Members</u></p>	<ol style="list-style-type: none"> 1. <u>Spouse:</u> A husband or wife as defined or recognized in the state where the individual was married (“place of celebration”), including individuals in same-sex and common law marriages. A spouse may include a husband or wife in a marriage that was validly entered into outside of the United States if it could have been entered into in at least one state. 2. <u>Son or Daughter:</u> A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent, who is under 18 years of age, or 18 years or older and is incapable of self-care because of a mental or physical disability. 3. <u>Parent:</u> A biological, adoptive, step or foster father or mother, or any other individual who stood in place of parent to the employee when the employee was a son or daughter as defined above. This term does not include parents “in law.”
<p><u>Types of FMLA Leave</u></p>	<ol style="list-style-type: none"> 1. <u>Continuous leave:</u> employee takes off from work for a continuous uninterrupted block of time. 2. <u>Reduced schedule leave:</u> employee takes only part of a day off for a designated period. 3. <u>Intermittent leave:</u> employee takes off either part of a day or a full day from work because of a <i>serious health condition</i>, returns to work for a period of time, and then again takes time off because of the same <i>serious health condition</i>.
<p><u>Qualifying Events</u></p>	<p><u>Serious Health Condition of Employee or Qualified Family Member</u> An employee can take up to a combined 12 weeks FMLA leave in a 12-month period in the event the employee suffers a qualifying health condition or to care for a <i>qualified family member</i>.</p> <p><i>Serious health conditions</i> include injury, illness, impairment, or physical or mental condition that involves:</p> <ol style="list-style-type: none"> a. Inpatient care in a hospital, hospice, or residential medical care facility of at least one night. b. Continuing treatment by a <i>health care provider</i> for incapacity of more than three (3) consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: treatment two or more times by a <i>health care provider</i> within 30 days of the period of incapacity; or treatment on at least one occasion which results in a regimen of continuing treatment such as incapacity due to pregnancy, or prenatal care. Conditions that cause episodic rather than a continuing period of incapacity such as asthma, diabetes, epilepsy, etc. are qualifying conditions of FMLA. <p>Chronic conditions such as asthma or diabetes that require periodic visits to a <i>health care provider</i> and that may not receive treatment from a <i>health care provider</i> during every absence, even if the absence does not last more than three (3) days, may be considered a <i>serious health condition</i>.</p> <p><u>Newborn Birth – Adoptions – Foster Care</u> An employee is entitled to take 12 weeks of FMLA leave for the birth and bonding of a newborn child or for the foster placement or adoption of a child. In either case the leave must be taken in a continuous block of time, unless otherwise approved by the department Director, and leave entitlement expires 12 months after the birth, adoption or placement of a child.</p> <p><u>Active Duty Family Leave</u> An employee with a spouse, parent, or child who is an active-duty member of the Armed Forces or a member of the National Guard or Reserves who has been called to covered active duty in the Armed Forces may take up to 12 weeks of FMLA leave in a 12-month period for a qualifying exigency. A qualify exigency includes making alternative childcare arrangements for the child of deployed Military Servicemember, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the Military Servicemember’s absence.</p>

<u>Qualifying Events (Cont.)</u>	<u>Military Servicemember Family Leave</u> Employees who are the spouse, parent, child, or <i>next of kin</i> of a Military Servicemember who incurred a serious injury or illness on covered active duty in the Armed Forces may take up to 26 weeks of leave in a single 12-month period (including regular FMLA leave) to care for a “member of the Armed Forces, including a member of the National Guard or Reserves.
<u>Health Care Provider</u>	Shall mean a Health Care Provider as defined by the Family Medical Leave Act of 1993.
Policy Guidelines	
<ol style="list-style-type: none"> 1. The City requires employees who request FMLA leave to substitute all paid leave prior to taking FMLA leave as Leave Without Pay. An employee’s accrued leave will be used for FMLA Leave in the following order: 1) Personal Leave, 2) Banked or Floating Holidays, 3) Incentive Leave, 4) Comp Time, and 5) Annual Leave. The time taken runs concurrently with the employee's FMLA leave entitlement. Therefore, the time taken is counted against the employee's FMLA leave entitlement. The substitution of accrued leave for unpaid FMLA will not apply to time taken off for a Workers’ Compensation absence which has also been designated as FMLA. 2. Employee is entitled to be returned to the same position the employee held when leave started, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, as provided for in the Act, on return from FMLA leave. 3. The City may also initiate FMLA leave for their employees where information suggests it is a qualifying condition. If the department is not aware of the reason for the leave, or if the employee is requesting FMLA leave retroactively, leave may be designated as FMLA leave retroactively only while the leave is in progress or within two business days of the employee’s return to work. In such cases, calculation of FMLA leave begins on the first day of the leave period. FMLA leave will only be considered for absences dating back no more than 15 calendar days from the date the FMLA leave was approved by the City. 4. Calls by relatives or persons other than the employee will be accepted on exceptional cases where the employee can show that he/she was incapacitated due to a FMLA <i>serious medical condition</i> and was not able to call in and report the FMLA absence. 5. Employees with absences under Workers’ Compensation or disability-related absences under AD 4.18 – Disability Plan, will have their absences designated as FMLA leave. These absences will count toward the employee’s FMLA leave entitlements under this AD. 	
<u>Medical Certification</u>	<ol style="list-style-type: none"> 1. Employees will be required to submit medical certification from a <i>health care provider</i> of the employee or employee’s family member as indicated in the Family Medical Leave Act. Failure to submit required medical certification within 15 calendar days of a request for certification may result in denial of the requested leave until the required certification is provided in the case of foreseeable leave. In the case of unforeseeable leave for medical reasons, certification must be provided within 15 days or as soon as reasonably possible under the particular facts and circumstances. 2. Medical certification within a <i>12 month period</i> is required <i>only once</i>, in the case of intermittent leave or leave on a reduced schedule, unless the circumstances or condition regarding the leave have changed. 3. Recertification of a medical condition may be requested by an employer according to the FMLA when circumstances described by the previous certification changes significantly or when the information received casts doubt upon the employee’s reason for the absence.

<u>Benefits</u>	<ol style="list-style-type: none"> 1. Health benefits will continue automatically under the Act if the employee is on paid status. If the leave is paid and payroll deductions are made, the premium payments will continue to be deducted during the leave of absence. If the employee is on unpaid FMLA leave, the employee is required to pay their premiums for continuation of medical benefits. The medical benefits will stop if the employee fails to pay. The Employee Benefits Division, Human Resources Department will mail the employee an invoice for premium payments. 2. Retirement and/or pension fund contributions will continue under the Act if the employee is on paid status.
Roles & Responsibilities	
<u>Finance</u>	<ol style="list-style-type: none"> 1. Time and Attendance Specialists are responsible to inform Human Resources when an employee has requested intermittent or reduced work schedule FMLA leave each time the employee requests his/her absence be counted towards FMLA leave. 2. Time and Attendance Specialists will enter time entry codes for employees on FMLA leave to ensure accurate tracking.
<u>Employees</u>	<ol style="list-style-type: none"> 1. Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting a Military Servicemember. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave. 2. Employees must give 30 days advance notice for foreseeable leave such as the birth or adoption of a child or planned medical treatments. If the FMLA qualifying event is not foreseeable, the employee must give notice as soon as practical. A request for FMLA leave should be completed by the employee and given to Human Resources. 3. Employees are required to submit a medical certification form from a health care provider. The employee has 15 calendar days to submit the requested certification. If there is a delay in submitting the required medical certification form, the employee must contact and inform Human Resources of the delay. Failure to submit medical certification may result in unauthorized leave. 4. Employees are required to submit a fitness for duty or return to work certification in cases involving an employee's own serious health condition that made the employee unable to perform the employee's job. 5. Employees are required to call and speak with their supervisor and Human Resources during their regularly scheduled work hours regarding the status of their medical condition and their intent to return to work once every two weeks. 6. Employees may file complaints with Human Resources or the U.S. Department of Labor.

<p><u>Human Resources</u></p>	<ol style="list-style-type: none"> 1. Human Resources is responsible to disseminate all the required information to the employee to include Administrative Directive 4.20, FMLA Notice of Eligibility and Rights & Responsibilities form, Certification of Health Care Provider, Designation Notice form, Notice of Leave Slip and the Department of Labor form entitled Your Rights Under The Family And Medical Leave Act Of 1993. 2. Human Resources is responsible to notify employees in writing that their time off may be designated as FMLA leave if the absence is a qualifying condition of the Act, when employees are off work for more than three (3) consecutive calendar days. Notification with all the necessary information and forms must be completed and mailed if the employee is not available, via certified mail by Human Resources. If it is determined that the leave is not FMLA protected, Human Resources must notify the employee. 3. Departments will forward the original completed medical certification form to the Employee Benefits Division, Human Resources Department along with all other required documentation. 4. Human Resources is responsible for posting the Department of Labor Form entitled Employee Rights and Responsibilities under the Family and Medical Leave Act at all work sites.
<p><u>Managers and Supervisors</u></p>	<ol style="list-style-type: none"> 1. Managers and supervisors are responsible to inform Human Resources when an employee is off more than three (3) consecutive days for a <i>qualifying event</i>, so that the appropriate paper work can be prepared and mailed immediately to the employee. 2. Managers and supervisors are responsible to inform Human Resources when an employee has requested intermittent or reduced FMLA leave, each time the employee requests his/her absence be counted towards FMLA leave or the supervisor identifies the absence as a FMLA <i>qualifying event</i> to ensure policy compliance. 3. Managers and supervisors are responsible to ensure that the employee reports to Human Resources upon returning to work.

This policy is intended to ensure compliance with The Family and Medical Leave Act and regulations, as amended, and shall be construed accordingly. In the event of a conflict between the policy and the Act and regulations, the Act and regulations shall take precedence. Information and/or clarification may be obtained by contacting Human Resources, Benefits Division.



CITY OF SAN ANTONIO
EMPLOYEE ACKNOWLEDGMENT FORM
FOR

ADMINISTRATIVE DIRECTIVE 4.20
FAMILY MEDICAL LEAVE ACT (FMLA)

Employee:

I acknowledge that on _____, 20____, I received a copy of Administrative Directive 4.20, Family Medical Leave Act, and was given the opportunity to ask questions or contact my Human Resources Representative.

Employee Name (Print)

Department

Employee Signature

Employee SAP ID Number

Attachment A
Personnel File (original)