

SALT LAKE COUNTY HUMAN RESOURCES POLICY & PROCEDURE
FAMILY, MEDICAL, AND MILITARY FAMILY LEAVE

REFERENCE

Americans with Disabilities Act of 1990, as amended
Family and Medical Leave Care Act of 1993, as amended
National Defense Authorization Act for FY 2008 (NDAA), Pub. L 100-181, § 585
Armed Forces, Definitions, Contingency Operation, 10 U.S.C. 101(a)(13)
Human Resources Policy & Procedure:
 Employment Status
 General Definitions
 Leave Practices
 Reasonable Accommodation Guidelines
 Return to Work After Injury or Illness
 Sick Leave Bank
 Termination of Employment
 Worker's Compensation

POLICY

It is the policy of Salt Lake County to provide an unpaid leave of absence to eligible employees in accordance with the Family and Medical Leave Act (FMLA) as amended by Section 585 of the National Defense Authorization Act for FY 2008, Public Law 110-181.

PURPOSE

To explain the circumstances under which an employee may take time off from work for family care, or medical care, covered service member care, and qualifying exigency.

DEFINITIONS

ACTIVE DUTY OR CALL TO ACTIVE DUTY (FMLA): Duty under a call or order to active duty or notification of an impending call or order to active duty for members of the Reserve components, the National Guard, certain retired members of the Regular Armed Forces and retired Reserves (does not include members of the Regular Armed Forces) pursuant to 10 U.S.C., 101(A)(13)(B), 688, 12301(a), 12302, 12304, 12305, 12406, and Chapter 15 or any other provision of law during a war or national emergency declared by the President or Congress so long as it is in support of a contingency operation.

ACTUAL HOURS WORKED (FMLA): Hours actually worked on the job: 1) does not include any type of paid or unpaid leave time (e.g. sick, vacation, compensatory time off, paid administrative leave, incentive leave, paid county holidays, Workers Compensation, etc.); 2) does include military service time (active duty and reserve) that occurs during the employee's normally scheduled work hours; and 3) overtime calculated as straight time.

CONTINGENCY OPERATION (FMLA): A military operation that: 1) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or 2) results in the call, order to, or retention on active duty of members of the uniformed services under 10 USC 688, 12301(a), 12302, 12304, 12305, or 12406 and Chapter 15 or any other provision of law during a war or during a national emergency declared by the President or Congress.

COVERED MILITARY MEMBER (FMLA Qualifying Exigency Leave): An employee's spouse, adult designee, child of any age, or parent on active duty or called to active duty in the National Guard, Reserves or certain retired members of the military (does not include members of the Regular Armed Services on active duty).

COVERED SERVICE MEMBER (FMLA Military Caregiver Leave): A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is in outpatient status, or is on the temporary disability retired list for a serious injury or illness incurred in the line of duty, while on active duty (does not include individuals retired or discharged from service unless they are placed on the temporary disability retired list).

ELIGIBLE EMPLOYEE (FMLA): An employee who has worked for Salt Lake County for: 1) at least twelve (12) months, which does not need to be consecutive, and 2) has accrued a minimum of twelve hundred and fifty (1,250) actual hours worked in the last twelve (12) months.

HEALTH CARE PROVIDER (FMLA): Doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, clinical social workers, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, and physician assistants who are authorized to practice medicine and are performing within the scope of their practice under state law, health care providers in a country other than the United States who are authorized to practice in accordance with the laws of that country and are performing within the scope of their practice under such law, Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts, or any health care provider recognized by Salt Lake County's group health plan's benefits manager.

IMMEDIATE FAMILY (FMLA): spouse; child (biological, adoptive, step or foster child, 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 a mental or physical disability at the time FMLA leave is to commence; parent (biological, adoptive, step or foster parent, legal guardian, or individual who stood in loco parentis); adult designee; a dependent child of an adult designee.

IMMEDIATE FAMILY (FMLA - Military Caregiver Leave): spouse; child (biological, adoptive, step or foster child, legal ward or a child of a person standing in loco parentis) of any age; parent (biological, adoptive, step or foster parent, legal guardian, or individual who stood in loco parentis); adult designee; a dependent child of an adult designee; or next-of-kin.

NEXT-OF-KIN (FMLA): Blood relatives other than immediate family members, as defined for Military Caregiver Leave, in the following order of priority: a blood relative designated in writing by the covered service member as the nearest blood relative for FMLA Military Caregiver Leave, blood relatives who have been granted legal custody, brothers, sisters, grandparents, aunts, uncles, and first cousins.

QUALIFYING EXIGENCY (FMLA): Military Family Leave for a Covered Military Member: 1) short-notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post-deployment activities; and 8) agreed upon additional activities.

QUALIFYING LEAVE (FMLA): Leave 1) to care for the serious health condition of an immediate family member or the employee's own serious health condition as defined, 2) to care for a serious injury or illness of a Covered Service Member, as defined, 3) for a Qualifying Exigency, as defined, or 4) for the birth, placement for adoption, or foster care of a child.

ROLLING 12-MONTH PERIOD (FMLA Eligibility and Use): 1) Eligible Foreseeable Event – the 12-month period measured backward from the date of the need to take FMLA leave; 2) Eligible Unforeseeable Event – the 12-month period measured backward from the date the employee began

using FMLA leave; 3) FMLA Military Caregiver Leave – a separate 12-month period measured forward beginning with the first day of military caregiver leave; 4) FMLA Leave Use – the 12-month period measured forward from the date the employee began using FMLA leave.

SERIOUS HEALTH CONDITION (FMLA): Illness, injury, impairment or a physical or mental condition that involves either:

- 1) **Inpatient Care:** Conditions requiring an overnight stay in a health care facility (hospital, hospice, or residential medical care facility) including any period of incapacity or subsequent treatment in connection with inpatient care; or
- 2) **Incapacity and Treatment:** A period of incapacity (inability to work, attend school or perform other regular daily activities) of more than three (3) consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves: two (2) or more treatments by a health care provider within thirty (30) calendar days from the first day of incapacity with the first treatment occurring in the first seven (7) days or one (1) treatment by a health care provider within seven (7) days from the first day of incapacity plus a regimen of continuing treatment, including prescribed medication, under the supervision of a health care provider; or
- 3) **Pregnancy or Prenatal Care:** Any period of incapacity related to pregnancy or prenatal care; or
- 4) **Chronic Conditions:** Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider which may involve occasional episodes of incapacity (a visit to a health care provider is not necessary for each absence); or
- 5) **Permanent or Long-Term Conditions:** A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective; or
- 6) **Conditions Requiring Multiple Treatments:** Any absences to receive multiple treatments by a health care provider for: restorative surgery after an accident or other injury or a condition that would likely result in a period of incapacity of more than three (3) consecutive, full-calendar days if not treated (a visit to a health care provider is not necessary for each absence).

PROCEDURE

1.0 ELIGIBILITY – FAMILY AND MEDICAL CARE LEAVE (FMLA)

- 1.1 Employees who have worked for Salt Lake County for at least twelve (12) months, which does not need to be consecutive, and have accrued a minimum of 1,250 actual hours worked in the twelve (12) months preceding the date leave will begin are eligible for leave without pay for medical or family care reasons. Employees are not required to exhaust sick leave or vacation balances prior to applying for FMLA.
- 1.2 An eligible employee is entitled to a maximum unpaid leave of absence of twelve (12) weeks in any twelve-month period for the care of an immediate family member, as defined, who has a serious health condition; for the birth, placement for adoption, or foster care of a child; or because of the employee's own serious health condition.
 - 1.2.1 The twelve-month period referred to in paragraph 1.2 shall be measured forward from the date the FMLA leave begins.
 - 1.2.2 An employee's entitlement to leave for the birth, placement for adoption, or foster care of a child expires at the end of the twelve-month period after the date of the birth or placement of the child.
 - 1.2.3 Spouses and adult designees who both work for Salt Lake County are limited to a combined maximum of twelve (12) weeks of leave during the twelve (12) month period referred to in paragraph 1.2 for birth, for placement for adoption or foster care of a child, or to care for a parent with a serious health condition. The couple may divide the leave time as they choose as long as the eligibility rules are

followed and the maximum amount of time taken between them is no more than twelve (12) weeks of leave.

2.0 PROCEDURE – FAMILY AND MEDICAL CARE LEAVE

- 2.1 An employee may request leave without pay for a foreseeable event by submitting a written request to the Administrator of: 1) the intent to take leave, 2) the date leave is to commence, 3) the reason(s) for taking leave, 4) the anticipated length of the leave, and 5) whether the leave is to be taken consecutively or intermittently (FMLA Form 2 is available on the Salt Lake County Intranet or from Human Resources).
- 2.1.1 Failure to comply with paragraph 2.1 because of an unforeseeable event shall not prohibit or delay an employee from taking FMLA leave if timely verbal or other notice was given.
- 2.1.2 Notice may be given by the employee's spokesperson (e.g. spouse, adult designee, adult family member, or other responsible party) if the employee is unable to do so personally.
- 2.2 The leave request must be submitted at least thirty (30) days in advance of a foreseeable event or following normal Agency call-in procedures or as soon as practicable in cases of an unforeseeable event.
- 2.3 An employee requesting leave due to the employee's own serious health condition or to care for the employee's immediate family member, as defined, shall be required to submit a Certification of Health Care Provider form within fifteen (15) calendar days (Certification forms are available on the Salt Lake County Intranet or from Human Resources).
- 2.3.1 In determining whether the leave qualifies under the provisions of this policy, an Administrator may require the employee to submit additional information to clarify the medical certification within fifteen (15) calendar days of the Administrator's request.
- 2.3.2 After the employee has been given an opportunity to provide additional information on the certification form, if further clarification and authentication is needed, the Administrator must contact Human Resources or the District Attorney's Office which will assist with contacting the health care provider.
- 2.3.3 An Administrator may require the employee to provide reasonable documentation or statements verifying family relationship within fifteen (15) calendar days of the request.
- 2.3.4 Employees may not be required to furnish medical information beyond that set out in the Certification of Health Care Provider forms in accordance with sections 2.3 and 2.3.1.
- 2.3.5 An employee who fails to provide medical documentation shall not be entitled to leave under this policy.
- 2.3.6 Employees may be required to submit periodic reports while on leave regarding their status and intent to return to work.
- 2.3.7 Employees may be required to obtain a second medical opinion, at the county's expense including reimbursement for reasonable 'out of pocket' travel expenses in accordance with Internal Revenue Service medical mileage rate guidelines.
- 2.3.7.1 If the first and second medical opinions differ, the employee may request a third medical opinion at the county's expense.
- 2.3.7.2 The third health care provider must be approved jointly by the Administrator and the employee.
- 2.3.7.3 If the employee does not act in good faith in reaching agreement for the third opinion, the second medical opinion shall be binding.

- 2.3.7.4 If the Administrator does not act in good faith in reaching agreement for the third opinion, the first medical opinion shall be binding.
- 2.3.7.5 If both parties act in good faith, the third medical opinion shall be binding.
- 2.4 Eligibility Notice (FMLA Form 1 Part A is available on the Salt Lake County Intranet or from Human Resources). An Administrator shall provide verbal or written notice of an employee's eligibility for FMLA leave within five (5) business days from receipt of an employee's request to take FMLA leave or upon determining the employee's leave may be for a FMLA-qualifying reason. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.
- 2.5 Rights and Responsibilities Notice (FMLA Form 1 Part B is available on the Salt Lake County Intranet or from Human Resources). As part of the Eligibility Notice, an Administrator shall provide written notice to an employee qualifying for FMLA leave detailing the specific expectations and obligations of the employee and explaining the consequences of failure to meet these obligations.
- 2.6 Designation Notice (FMLA Form 3 available on the Salt Lake County Intranet or from Human Resources). After an Administrator receives documentation of the need for leave, the Administrator shall notify the employee in writing within five (5) business days whether the requested leave qualifies for FMLA and, if qualified, indicate the leave will be deducted from the employee's FMLA leave entitlement.
 - 2.6.1 Return to Work Certification. In cases where an employee's own serious health condition affects the ability to perform the duties of the position held, an Administrator may require as a condition of reinstatement, a certification the employee is able to perform the essential functions of the job. The Designation Notice shall include a list of the essential functions of the position.
- 2.7 Retroactive Designation. If an Administrator does not designate FMLA leave as required, the Administrator may retroactively designate leave as FMLA with notice to the employee provided the failure to timely designate the leave does not harm or injure the employee. In all cases where leave would qualify for FMLA, the Administrator and employee may mutually agree to retroactively designate FMLA leave.
- 2.8 Administrators who grant FMLA leave without pay shall indicate on the Personnel Action Form "FMLA" as reason for leave.
- 2.9 Recertification of Medical Conditions
 - 2.9.1 30-Day Rule. An Administrator may request recertification no more often than every 30 days and only in connection with an employee's absence.
 - 2.9.2 More than 30-Days Rule. If the medical certification indicates the minimum duration of the condition is more than 30 days, recertification cannot be requested until the minimum duration expires. In all cases, recertification may be requested every six (6) months in connection with an employee's absence.
 - 2.9.3 Less than 30-Days Rule. An Administrator may request recertification in less than 30 days if the employee requests an extension of leave, the circumstances described by the certification have changed significantly (e.g. the duration or frequency of the absence, the nature or severity of the illness) or the Administrator receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.
 - 2.9.4 An employee shall provide the requested recertification within fifteen (15) calendar days from receipt of the request.
 - 2.9.5 The recertification may request the same information as the original certification.

2.9.5.1 An Administrator may provide the health care provider with a record of the employee's absence pattern and ask if the serious health condition and need for leave is consistent with such a pattern.

2.9.6 No second or third opinion may be required on recertification.

2.9.7 Annual Medical Certification. When the need for leave exceeds a single leave year, an Administrator may require the employee to provide a new medical certification in each subsequent leave year.

3.0 INTERMITTENT OR REDUCED SCHEDULE LEAVE – FAMILY AND MEDICAL CARE LEAVE

3.1 Intermittent leave or leave on a reduced schedule is available for the care of an immediate family member, as defined, with a serious health condition or for the employee's own serious health condition.

3.1.1 Only the actual amount of leave taken on an intermittent or reduced schedule may be counted towards an employee's FMLA leave entitlement.

3.2 Intermittent leave or leave on a reduced work schedule is **not** available for the birth or placement of a child unless approved by the Administrator.

3.3 Administrators may temporarily reassign an employee who has requested leave on an intermittent or reduced work schedule.

3.3.1 There are no limitations on the nature of the duties an employee may be reassigned to perform as long as the employee is qualified to perform those duties. The employee shall receive the pay and benefits of the regular position for the hours of work performed. The employee may be reassigned to a part-time position with the same rate of pay provided the employee is not required to take more leave than is medically necessary.

4.0 INSURANCE/BENEFITS – FAMILY AND MEDICAL CARE LEAVE

4.1 An employee on family or medical care leave who wants to maintain health, dental, 125 pre-tax cafeteria deductions or life insurance shall be required to pay the same premium or cafeteria payroll deduction normally paid.

4.1.1 An employee who fails to submit the required premium payment shall be notified in writing and given fifteen (15) calendar days after the notification before coverage is canceled.

4.2 If upon the expiration of a family or medical leave, the employee chooses not to return to work, the employee shall be required to reimburse the county for premiums paid by the county unless the reason the employee does not return to work is due to any circumstance which would entitle the employee to leave under FMLA or other circumstances beyond the employee's control.

4.2.1 Employees who fail to return to work at the end of the leave period due to the conditions listed under 4.2 will be required to furnish medical certification to support the employee's claim.

4.2.1.1 Employees who fail to furnish the requested information within thirty (30) days of the request shall be required to reimburse the county for insurance premiums paid during the unpaid leave.

4.2.2 An employee who returns to work for at least thirty (30) calendar days is considered to have returned to work.

4.2.2.1 An employee who transfers directly from taking FMLA leave to retirement or who retires during the first thirty (30) days after returning to work is deemed to have 'returned to work.'

- 4.2.3 Money owed to the county may be deducted from any sums owed by the county to the employee.
 - 4.3 If an employee elects to discontinue insurance coverage while on leave without pay, upon return to work, the employee may reinstate the same insurance coverage without pre-existing conditions or re-enrollment requirements.
 - 4.4 Employees who are on leave during open enrollment shall be provided with the same options as active employees.
 - 4.5 While on leave without pay an employee is not eligible for accumulation of sick leave, vacation, or retirement benefits as provided by State law.
- 5.0 REINSTATEMENT – FAMILY AND MEDICAL CARE LEAVE
- 5.1 Upon return from leave without pay under the provisions of this policy, the employee shall return to the former position or an equivalent position in terms of pay, benefits and working conditions within the department or elected office from which the leave was granted. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.
 - 5.1.1 If the Administrator determines the employee will not be reinstated to the former position, but to an equivalent position, a written notice shall be provided to the employee.
 - 5.2 If, during the period of leave, the payroll unit where the employee worked undergoes a reduction-in-force and there is no vacant allocation to which the employee may be reinstated, normal reduction-in-force (RIF) procedures shall be followed.
 - 5.2.1 If the position the employee formerly encumbered was abolished during the period of leave for purposes of a RIF, the employee shall be considered as having encumbered the position at the time the position was abolished.
 - 5.3 Upon return from leave in excess of thirty (30) cumulative days in a twelve (12) month period, the employee's service date shall be adjusted to reflect the time spent on leave without pay status.
 - 5.3.1 The adjusted service date is used to determine the rate of vacation accrual, awards for years of service, and to calculate reduction-in-force (RIF) points.
- 6.0 Employees not eligible for leave under this policy may be eligible for leave under Human Resources Policy and Procedure, Leave Practices or Reasonable Accommodation Guidelines.
- 7.0 ELIGIBILITY – MILITARY FAMILY LEAVE
- 7.1 Employees who have worked for Salt Lake County for at least twelve (12) months, which does not need to be consecutive, and have accrued a minimum of 1,250 actual hours worked in the twelve (12) months preceding the date leave will begin are eligible for leave without pay under the provisions of this policy. Employees are not required to exhaust sick leave or vacation balances prior to applying for FMLA.
 - 7.2 Qualifying Exigency Leave. An eligible employee is entitled to a maximum unpaid leave of absence of twelve (12) weeks in any twelve-month period for a Qualifying Exigency because the employee's immediate family member, as defined, is a Covered Military Member.
 - 7.2.1 The twelve (12) week period referred to in paragraph 7.2 shall be measured forward from the date the FMLA leave begins.
 - 7.2.2 Spouses and adult designees who both work for Salt Lake County are limited to a combined maximum of twelve (12) weeks of leave during the twelve (12) month period referred to in paragraph 7.2. The couple may divide the leave time as they

choose as long as the eligibility rules are followed and the maximum amount of time taken between them is no more than twelve (12) weeks of leave.

- 7.3 Military Caregiver Leave. An eligible employee who is the immediate family member, as defined, of a Covered Service Member is entitled to a maximum unpaid leave of absence of twenty-six (26) weeks in a single twelve (12) month period to care for the covered service member.
- 7.3.1 The single twelve-month period referred to in paragraph 7.3 is a separate FMLA leave period which is measured forward from the date the Military Caregiver Leave begins.
- 7.3.2 An employee shall take no more than a combined twenty-six (26) weeks of Military Caregiver Leave and leave for any other FMLA-qualifying reason in the single 12-month period referred to in paragraph 7.3.1.
- 7.3.3 An eligible employee who does not take all of the twenty-six (26) weeks of leave to care for the Covered Service Member during the single 12-month period forfeits the remaining part of the twenty-six (26) weeks of leave.
- 7.3.4 Military Caregiver Leave is applied on a per-covered service member, per-injury/illness basis, therefore; an eligible employee may be entitled to take more than one period of leave to care for different covered service members or to care for the same service member with a subsequent serious injury or illness.
- 7.3.5 When leave qualifies as both Military Caregiver Leave and FMLA leave to care for a seriously ill family member, the leave must be designated as Military Caregiver Leave first. The leave must not be designated and counted as both Military Caregiver Leave and traditional FMLA leave.
- 7.3.6 Spouses and adult designees who work for Salt Lake County are limited to a combined total of twenty-six (26) weeks of leave during the single twelve (12) month period. The couple may divide the leave time as they choose as long as the eligibility rules are followed and the maximum amount of time taken between them is no more than twenty-six (26) weeks of leave.

8.0 PROCEDURE – MILITARY FAMILY LEAVE

- 8.1 An employee may request leave without pay for a foreseeable event by submitting a written request to the Administrator of: 1) the intent to take the leave, 2) the date upon which leave is to commence, 3) the reason(s) for taking the leave, 4) the anticipated length of the leave, and 5) whether the leave will be consecutive or intermittent (FMLA Form 2 is available on the Salt Lake County Intranet or from Human Resources).
- 8.1.1 Failure to comply with paragraph 8.1 because of an unforeseeable event shall not prohibit or delay an employee from taking FMLA leave if timely verbal or other notice was given.
- 8.1.2 The leave request must be submitted at least thirty (30) calendar days in advance of a foreseeable event or following normal Agency call-in procedures or as soon as practicable in cases of an unforeseeable event.
- 8.1.3 An employee who fails to provide the required documentation shall not be entitled to leave under this policy.
- 8.2 Qualifying Exigency Leave (Certification form is available on the Salt Lake County Intranet or from Human Resources). An employee requesting leave due to a qualifying exigency shall be required to submit the Qualifying Exigency for Military Family Leave Certification form and military orders or other documentation regarding the reason for the qualifying exigency. Reasons for leave are:

- (1) Short-notice deployment: Leave for up to seven (7) days beginning the day of notification to address issues that arise from a Covered Military Member's impending call or order to active duty;
 - (2) Military events and related activities: Leave to attend any official military ceremony, program or event related to the active duty or call to active duty status, or to attend certain family support or assistance programs and informational briefings;
 - (3) Childcare and school activities: Leave to arrange or provide for childcare or school-related activities when necessary as a result of the call to active duty;
 - (4) Financial and legal arrangements: Leave to make or update various financial or legal arrangements to address the covered military member's absence;
 - (5) Counseling: Leave to attend counseling (by someone other than a health care provider) when necessary as a result of the active duty or call to active duty;
 - (6) Rest and recuperation: Leave for up to five (5) days each time a Covered Military Member receives time off for rest and recuperation;
 - (7) Post-deployment activities: Leave to attend arrival ceremonies, reintegration briefings and events or any other official ceremony or program sponsored by the military for a period of approximately 90 days following the termination of the covered service member's active duty or to address issues that arise from the death of a covered service member; and
 - (8) Agreed upon additional activities: Leave to address other events arising from military duty agreed upon between Administrator and employee.
- 8.2.1 An Administrator may require the employee to provide reasonable documentation or statements verifying family relationship within fifteen (15) calendar days of the request.
- 8.2.2 Employees may not be required to furnish information beyond that set out in the Qualifying Exigency for Military Family Leave Certification form in accordance with Section 8.2.
- 8.2.2.1 Employees may be required to submit periodic reports while on leave regarding their status and intent to return to work.
- 8.2.3 Administrators who grant leave because of a qualifying exigency shall indicate on the Personnel Action Form "FMLA" as reason for leave.
- 8.3 Military Caregiver Leave (Certification form is available on the Salt Lake County Intranet or from Human Resources). An employee requesting Military Caregiver Leave shall be required to submit a Serious Injury or Illness of a Covered Service Member Certification of a Health Care Provider form.
- 8.3.1 In determining whether the leave qualifies under the provisions of this policy, an Administrator may require the employee to submit additional information to clarify the medical certification within fifteen (15) calendar days of the Administrator's request.
- 8.3.2 After the employee has been given an opportunity to provide additional information on the certification form, if further clarification and authentication is needed, the Administrator must contact Human Resources or the District Attorney's Office which will assist with contacting the health care provider.
- 8.3.3 Employees may not be required to furnish information beyond that set out in the Serious Injury or Illness of Covered Service Member certification form in accordance with Section 8.3.

- 8.3.4 In lieu of the Serious Injury or Illness of a Covered Service Member Certification form, “invitational travel orders” (“ITOs”) or “invitational travel authorizations” (“ITAs”) issued to any family member is sufficient certification for leave for the time specified in the ITO or ITA regardless of whether the employee is named in the order or authorization. If an employee needs leave beyond the expiration date specified in an ITO or ITA, an Administrator may request certification by an authorized health care provider for the remainder of the employee’s leave period. No second or third opinion may be requested during the period of time in which leave is supported by an ITO or ITA.
- 8.4 An Administrator may require the employee to provide reasonable documentation or statements verifying family relationship within fifteen (15) calendar days of the request.
- 8.4.1 Determining next-of-kin family relationship. When a designation of next-of-kin has been made for purposes of Military Caregiver Leave, the designated individual shall be deemed to be the Covered Service Member’s only next-of-kin. If no next-of-kin designation has been made, the next-of-kin is the nearest blood relative other than immediate family members, as defined, in the following order of priority: Blood relatives who have been granted legal custody, brothers, sisters, grandparents, aunts, uncles, and first cousins. When there are multiple family members with the same level of relationship to the Covered Service Member, and no designation has been made, all family members shall be considered the next-of-kin and may take FMLA leave to provide care.
- 8.5 Employees may be required to submit periodic written reports while on leave regarding their status and intent to return to work.
- 8.6 Eligibility Notice (FMLA Form 1 is available on the Salt Lake County Intranet or from Human Resources). An Administrator shall provide verbal or written notice of whether an employee is eligible for FMLA leave within five (5) business days from receipt of an employee’s notice for the need to take leave. If the employee is not eligible for FMLA leave, the notice shall state at least one reason why the employee is not eligible.
- 8.7 Rights and Responsibilities Notice (FMLA Form 1 is available on the Salt Lake County Intranet or from Human Resources). As part of the Eligibility Notice, an Administrator shall provide written notice to an employee qualifying for FMLA leave detailing the specific expectations and obligations of the employee and explaining the consequences of failure to meet these obligations.
- 8.8 Designation Notice (FMLA Form 3 is available on the Salt Lake County Intranet or from Human Resources). After an Administrator receives documentation of the need for leave, the Administrator shall notify the employee in writing within five (5) business days whether the requested leave qualifies for FMLA and, if qualified, indicate the leave will be deducted from the employee’s FMLA leave entitlement.
- 8.9 Retroactive Designation. If an Administrator does not designate FMLA leave as required, the Administrator may retroactively designate leave as FMLA with notice to the employee provided the failure to timely designate the leave does not harm or injure the employee. In all cases where leave would qualify for FMLA, the Administrator and employee may mutually agree that leave be retroactively designated as FMLA leave.
- 8.10 Administrators who grant leave shall indicate on the Personnel Action Form "FMLA" as reason for leave.
- 9.0 INTERMITTENT OR REDUCED SCHEDULE LEAVE – MILITARY FAMILY LEAVE
- 9.1 Intermittent leave or leave on a reduced schedule is available for Qualifying Exigency or Military Caregiver Leave.

- 9.1.1 Only the actual amount of leave taken on an intermittent or reduced schedule may be counted towards an employee's leave entitlement.
- 9.2 Administrators may temporarily reassign the duties of an employee who has requested leave on an intermittent or reduced work schedule.
 - 9.2.1 A temporary reassignment of duties is at the discretion of the Administrator.
 - 9.2.2 There are no limitations on the nature of the duties an employee may be reassigned to as long as the employee is qualified to perform those duties. The employee shall receive the pay and benefits of the regular position for the hours of work performed. The employee may be reassigned to a part-time position with the same rate of pay provided the employee is not required to take more leave than is medically necessary.
- 10.0 INSURANCE/BENEFITS – MILITARY FAMILY LEAVE
 - 10.1 An employee on Military Family Leave who wants to maintain health, dental, 125 pre-tax cafeteria deductions or life insurance shall be required to pay the same premium or cafeteria payroll deduction normally paid.
 - 10.1.1 An employee who fails to submit the required premium payment shall be notified in writing and given fifteen (15) calendar days after the notification before coverage is canceled.
 - 10.2 If, upon expiration of the Military Family Leave, the employee chooses not to return to work, the employee shall be required to reimburse the county for the insurance premiums paid by the county unless the reason the employee does not return to work is due to any circumstance which would entitle the employee to leave under FMLA or other circumstances beyond the employee's control.
 - 10.2.1 Employees who fail to return to work at the end of the leave period due to the conditions listed under Section 10.2 will be required to furnish certification to support the employee's claim.
 - 10.2.2 Employees who fail to furnish the requested information within thirty (30) days of the request shall be required to reimburse the county for insurance premiums paid during the unpaid leave.
 - 10.2.3 An employee who returns to work for at least 30 calendar days is considered to have returned to work.
 - 10.2.3.1 An employee who transfers directly from taking FMLA leave to retirement or who retires during the first 30 days after returning to work is deemed to have 'returned to work.'
 - 10.2.4 Money owed to the county may be deducted from any sums owed by the county to the employee.
 - 10.3 If an employee elects to discontinue insurance coverage while on leave without pay, upon return to work, the employee may reinstate the same insurance coverage without pre-existing conditions or re-enrollment requirements.
 - 10.4 Employees who are on leave during open enrollment shall be provided with the same options as active employees.
 - 10.5 While on leave without pay an employee is not eligible to accumulate sick leave, vacation, or retirement benefits as provided by State law.
- 11.0 REINSTATEMENT – MILITARY FAMILY LEAVE
 - 11.1 Upon return from leave without pay under the provisions of this policy, the employee shall return to the former position or an equivalent position in terms of pay, benefits and working conditions within the department or elected office from which the leave was

granted. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

11.1.1 If the Administrator determines the employee will not be reinstated to the former position, but to an equivalent position, written notice shall be provided to the employee.

11.2 If, during the period of leave, the payroll unit where the employee worked undergoes a reduction-in-force and there is no vacant allocation to which the employee may be reinstated, normal reduction-in-force (RIF) procedures shall be followed.

11.2.1 If the position the employee formerly encumbered was abolished during the period of leave for purposes of a RIF, the employee shall be considered as having encumbered the position at the time the position was abolished.

11.3 Upon return from leave without pay in excess of thirty (30) cumulative days in a twelve (12) month period, the employee's service date shall be adjusted to reflect the time spent on leave without pay status.

11.3.1 The adjusted service date is used for determine the rate of vacation accrual, awards for years of service, and to calculate Reduction-in-Force (RIF) points.

12.0 Employees not eligible for leave under this policy may be eligible for leave under the provisions of Human Resources Policy and Procedure, Leave Practices.

12.1 In exceptional cases an additional period of leave without pay, not related to FMLA, of up to one year may be granted to employees in the following employment statuses upon recommendation of the Elected Official or Department Director and approval by the Mayor: 02 full-time merit, 08 part-time merit with county benefits and 09 part-time merit without county benefits.

APPROVED AND PASSED THIS 19TH DAY OF MAY, 2009.