
Leave of Absence Procedures

Human Resources Department

Contents:

I.	Policy.....	2
	5.4 Leave of Absence Policy.....	2
	Non-Union Sick Bank Leave Policy.....	8
II.	Purpose.....	11
III.	Scope/ Tasks.....	11
IV.	Abbreviations and Definitions.....	11
V.	Responsibilities.....	14
VI.	Family Medical Leave Act (FMLA).....	16
	a) Federal FMLA.....	16
	b) RIFFMLA.....	17
VII.	Other City Leaves	18
	a) Paid Parental Leave (Non-Union).....	18
	b) Sick Leave Extension (Union).....	18
	c) Non-Union Sick Bank Leave.....	19
	d) General Leave of Absence.....	19
	e) Military leave.....	20
VIII.	How to request a leave	21
	a) 15 Day deadline.....	21
	b) Missing/incomplete documentation extension.....	21
	c) Provisional designation.....	21
IX.	FMLA Certification.....	21
	a) Clarification or authentication of the certification form.....	22
	b) Complete and Sufficient Certification.....	22
	c) Requesting an updated certification form.....	23
	d) The Genetic Information Nondiscrimination Act (GINA).....	23
X.	FMLA Designation.....	23
	a) Retroactive FMLA.....	23
	b) Employee’s failure to provide require documentation.....	24
	c) Combined Leave for Spouses.....	24
	d) Workers Compensation Leave.....	24
XI.	Employees Return to Work.....	24
XII.	FMLA Tracking/ Payroll	24
XIII.	Coordination of Leaves of Absences.....	25
XIV.	FMLA Case Studies	26
	a) Knox v City of Monroe (2009)	26
	b) Branham v Gannett Satellite Network (2007).....	26
	c) Atkins v Wayne-Dalton (2010).....	27
	d) Render v. FCA US LLC (2022).....	27
XV.	Leave of Absence Flow Chart	28
	Attachment 1.....	29
	Version Control.....	30

I. Policy:

5.4 Leave of Absence Policy

Applicability

This policy applies to all full-time, regular employees of the City of Providence.

Purpose

The purpose of this policy is to inform employees of the City of Providence of the leaves of absence available to them for reasons related to medical care for themselves or qualifying family members, the birth or placement of a new child in their home, military service, and other purposes, as well as the associated eligibility and certification requirements. This policy will also outline the general procedures and expectations for leave administration at the City of Providence.

Policy

The City of Providence administers several leave policies with differing eligibility criteria and certification requirements. Leaves of absence may be approved under one of the following policies, or under multiple leave policies concurrently when applicable:

- Family and Medical Leave Act (FMLA)
- Rhode Island Parental and Family Medical Leave Act (RIPFMLA)
- Paid Parental Leave
- Sick Leave Extension
- General Leave of Absence
- Military Leave in accordance with USERRA

Leave Administration:

Leaves of absence are administered by the City of Providence's Department of Human Resources. This policy, necessary forms, and other information regarding the leaves of absence available to City employees can be found on the Human Resources website at

<https://www.providenceri.gov/hr/employee-leaves/>. Employees may also contact the Department of Human Resources directly at hr@providenceri.gov to obtain information and forms.

- Employees must provide thirty (30) days' advance notice of the need for a leave of absence. If an employee fails to provide thirty (30) days' notice of foreseeable leave with no reasonable excuse, leave may be denied. If the need for leave is unexpected or unforeseen, an employee should provide as much notice as practical.
- Upon receiving the request for a leave of absence, the Department of Human Resources will review the request and respond notifying the employee of their eligibility for leave under the applicable law or policy.
- Employees who are eligible for a leave of absence will be provided with the appropriate form with which to certify their need for leave. The required documentation must be returned to the Department of Human Resources within fifteen (15) calendar days, or the request for leave may be denied.
- Upon receipt of the completed form, employees will be informed whether their request for leave has been approved or denied, whether additional information or clarification is needed, the duration of their leave in the case of an approval, and whether they will be required to present a fitness for duty certification prior to returning to work.

- Please note that all absences by employees that qualify for the Family and Medical Leave Act, or the Rhode Island Parental and Family Medical Leave Act shall be designated as such even if the employee does not request such leave.

Family and Medical Leave Act (FMLA):

The Family and Medical Leave Act (FMLA) is a federal law that provides employees with the right to an unpaid leave of absence in certain circumstances, and to be reinstated to their position, or an equivalent position at the conclusion of their FMLA protected leave of absence. Under the FMLA, employees may be entitled to up to twelve (12) weeks of unpaid, job protected leave during a twelve (12) month period. FMLA leave will run concurrently with other leave policies or workers' compensation benefits, as applicable.

To be eligible for leave under the FMLA, employees must meet the following criteria:

- Have been employed by the City for at least twelve (12) months.
- Have worked at least 1,250 hours in the previous twelve (12) months prior to the start of the requested leave.

To qualify for leave as FMLA under this policy, the leave request must be for one of the following reasons:

- An employee's own serious health condition.
- To care for an immediate family member's serious health condition. An immediate family member is defined as a parent, spouse, or child.
- The birth, adoption, or foster placement of a child in the employee's home, within one (1) year of the qualifying event.
- Any qualifying exigency arising out of the fact that the employee's son, daughter, or parent is a service member on covered active duty or call to covered duty status.

Employees who meet the above criteria may apply for up to twelve (12) consecutive weeks of FMLA protected leave, or alternatively may apply for intermittent leave, at a frequency and duration specified by their health care provider in writing.

When the need for leave is foreseeable, the employee must provide the city with thirty (30) days advance notice of the need to take FMLA leave, when it is possible and practical to do so. When the need for leave is unexpected, the employee must provide notice to the city as soon as possible and practical.

Each request for leave under the FMLA will require that the employee provide a Certification of Health Care Provider Form, fully executed by the employee's treating health care provider, or that of a family member for whom the employee will be providing care. Incomplete certifications will be returned to the employee and leave approval will not be granted until completed.

An employee approved for FMLA protected leave is required to discharge any accrued and available paid sick time. Once all available sick time has been discharged, the employee may choose whether to discharge available vacation or floating holiday time, or to go unpaid. An employee on an approved intermittent FMLA leave is required to discharge their accrued and available sick time in any increment that aligns with their intermittent FMLA usage. FMLA regulations specify that an employer must account for intermittent leave using increments that aren't greater than the shortest amount of time used for other forms of leave (provided that period is no greater than one hour). The lowest time amount for the City of Providence would be 1-hour increments per the Collective Bargaining Agreement.

Rhode Island Parental and Family Medical Leave Act (RIPFMLA):

The Rhode Island Parental and Family Medical Leave Act (RIPFMLA) is a state law that provides employees with protections like those of the FMLA, but with some differences in eligibility requirements, qualifying reasons for leave, and entitlement available. Under the RIPFMLA, employees may be eligible for up to thirteen (13) weeks of unpaid, job protected leave during a twenty-four (24) month period. RIPFMLA leave will run concurrently with other leave policies or workers' compensation benefits, as applicable.

To be eligible for protected leave under the RIPFMLA, employees must meet the following criteria:

- Have been employed by the city for twelve (12) consecutive months.
- Be a full-time employee that works an average of thirty (30) hours per week.

To qualify for leave as RIPFMLA under this policy, the leave request must be for one of the following reasons:

- An employee's own serious health condition.
- To care for a family member's serious health condition. A family member is defined as a spouse, qualifying domestic partner, parent, parent-in-law, or child.
- The birth, adoption, or foster placement of a child in the employee's home within one (1) year of the qualifying event.
- To attend a child's qualifying school activities. Please note that this leave is limited to ten (10) hours in a twelve (12) month period.

Employees who meet the above criteria may apply for up to thirteen (13) weeks of RIPFMLA protected leave. RIPFMLA does not allow for the use of intermittent or reduced schedule leave; therefore, leave must be taken over a continuous period of time.

Certification requirements of RIPFMLA are the same as FMLA, and if both are applicable, FMLA and RIPFMLA will run concurrently. FMLA and RIPFMLA will also run concurrently with any other applicable leave, policy, or benefit which may be available.

An employee approved for RIPFMLA protected leave is required to discharge any accrued and available paid sick time. Once all available sick time has been discharged, the employee may choose whether to discharge available vacation or floating holiday time, or to go unpaid.

Paid Parental Leave:

Note: The Parental Leave Policy does not cover employees in a temporary position or who are represented by the Laborers' Local 1033, the Fraternal Order of Police, or Local 799 of the International Association of Fire Fighters Unions, and PPSD teacher or clerical unions. Please refer to your respective collective bargaining agreements for leave provisions specific to you. In addition, certain grant funded positions may not be eligible.

Paid Parental Leave is offered by the City of Providence to ensure that eligible new parents who are regular, full-time employees of the City have the opportunity to take up to six (6) weeks of paid leave to accommodate the birth, adoption, or foster placement of a child in their home.

To be eligible for Paid Parental Leave, employees must meet the following criteria:

- Employed as a regular, full-time employee of the city for at least one (1) full year, consisting of twelve (12) consecutive months.

- Must not have utilized any other leave entitlement during the previous twelve (12) months from their leave start date, not to include the routine use of vacation, sick, or floating holiday time.
- Must be in good standing with an acceptable performance record, as determined by the Chief Human Resources Officer.

To qualify for Paid Parental Leave, the leave request must be for the following reason:

- The birth, adoption, or foster placement of a child in the employee's home, within one (1) year of the qualifying event.

Employees who meet the above criteria may apply for up to six (6) weeks of Paid Parental Leave, which cannot exceed twelve (12) months following the date of birth, adoption, or foster placement. If the employee is eligible for FMLA or RIFFMLA, it will run concurrently with Paid Parental Leave. Leave may be requested on a continuous or intermittent basis, but in keeping with FMLA standards, an intermittent leave for bonding will only be approved with the explicit agreement of the employee's director and the Chief Human Resources Officer, to include an agreed upon frequency and duration of absences in writing.

The employee must apply for Paid Parental Leave thirty (30) days in advance of the qualifying event or as soon as it is practical.

Each request for Paid Parental Leave will require that the employee complete the Paid Parental Leave Application, to include medical or legal documentation to certify the birth or placement of a child in the employee's home. Incomplete applications will be returned to the employee and leave approval will not be granted until completed.

An employee approved for Paid Parental Leave must discharge all but two (2) weeks of paid time off prior to receiving any leave with pay under this policy. The two (2) weeks of paid time off can be any combination of sick, vacation, or floating holiday time. Regardless of when an application is submitted, any benefit provided under this policy will be based on the employee's paid time off balances as of their leave start date. Upon expiration of Paid Parental Leave, the employee may utilize their remaining balances of paid time off.

Sick Leave Extension:

Any employee represented by the Laborers' Union Local 1033 with at least five (5) years of continuous service, who contracts a serious illness, may be granted, with the approval of the Chief Human Resources Officer in consultation with their department director, an extension to their leave of absence, not to exceed ninety (90) days after discharge of all accumulated paid time off over the full term of their employment with the City of Providence.

Sick leave extensions are granted in thirty (30) working day increments and must be requested using the Sick Leave Extension Application, accompanied by a letter from the employee's treating health care provider stating the time the employee is required to be out of work. Any unused time in the 30 days granted will not be retained for future use. Following review by the employee's department director and the Chief Human Resources Officer, employees will receive notification of the decision on their Sick Leave Extension request as outlined above in leave administration.

General Leave of Absence:

Any full-time, regular employee may be granted a leave without pay, not to exceed one (1) year, for reasons of personal illness, disability, or other purpose deemed proper and approved solely at the discretion of the Chief Human Resources Officer. Except for employees on leave due to medical reasons,

employees on unpaid leave of any nature shall not accrue sick or vacation time after twenty-six (26) weeks of unpaid leave.

Employees seeking a General Leave of Absence must complete a General Leave of Absence Application and return it to Human Resources. If the leave is medical in nature, employees are required to attach supporting medical documentation. The employee's director will complete their portion of the application and forward the completed form to Human Resources for final review, including approval or denial. Employees will then receive notification of the decision on their leave of absence request as outlined above in leave administration.

While on a General Leave of absence for a medical reason, it is mandatory to discharge all accrued and available paid sick time. Once all available sick time has been discharged, the employee may choose whether to discharge available vacation or floating holiday time, or to go unpaid. All decisions related to the use of paid time off must be outlined on the Leave of Absence Application. Overall, the CHRO has the final determination if an employee's available accrual balance is required to be used while on an approved General Leave of Absence.

Military Leave:

The City of Providence grants Military Leaves of Absence in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and applicable state laws that protect individuals with military commitments from detrimental employment decisions based upon those commitments. Military leaves of absence may be paid or unpaid leaves.

City Ordinance Section 17-95:

Officers and full-time employees who have been continuously employed for at least six (6) months and who by reason of membership in the active reserve forces of the United States or as members of the Rhode Island National Guard are ordered by the appropriate authority to full-time active duty and to attend full-time training activities shall be entitled to leaves of absence with pay during the actual duration of such activity but not to exceed fifteen (15) days in any one (1) year. Notwithstanding, after the completion of the aforementioned fifteen (15) days of paid military duty leave, and for as long as the employee is required by the appropriate authority to remain on full-time military duty leave, the city shall pay to the employee on a weekly basis an amount equivalent to the actual difference between the employee's then-current regular city salary (including, if applicable, all longevity pay benefits; and including any applicable salary increases that may take effect during the employee's military duty leave) and the amount of pay received by the employee for his/her military service, if said regular city salary is higher than the employee's military pay. Military leave shall not be deemed vacation leave.

Military Leave is defined as any time off that is provided to employees who are members of the National Guard or other reserve component of the United States Armed Services and who are called to active duty, attend scheduled reserve service, and/or temporary training duty.

Employees must give written or verbal notice along with, if available, a copy of the military orders to their supervisor and the Department of Human Resources at least two (2) weeks prior to the start date of the Military Leave of Absence when it is possible and practical to do so. Additionally, the employee is required to follow any standard departmental practice related to communication of upcoming leave.

Employees requesting more than fifteen (15) days of Paid Military Leave must also provide their supervisor and the Department of Human Resources with proof of their military salary, such as a Leave and Earnings Statement, to allow for calculation of compensation amounts in accordance with the City Ordinance.

Holiday Pay on Leave:

To be eligible for holiday pay, employees must work during the week that the holiday occurs or during the previous week. An employee may also be eligible for holiday pay if they are utilizing vacation time or bereavement time for at least one day during the week, or if on jury duty. For purposes of this policy, paid floating holiday time, or personal time will be treated the same as vacation time.

Employees who discharge paid sick time during the week of the holiday and the entire preceding week, will not receive holiday pay, even if they are on approved medical leave pursuant to the FMLA. In this circumstance, the employee will be paid sick time in lieu of any holiday pay, and such sick time will be drawn from their balance of accrued sick time.

If the employee is on an approved leave of absence and discharges paid vacation time, floating holiday time, or compensatory time, they will receive holiday pay. Employees on approved leave in an unpaid status during the entire week of the holiday and the entire preceding week will not receive holiday pay.

Reminder: Employees who are on approved FMLA/RIPFMLA, or any other leave of absence for their own health condition must discharge all of their paid sick time before utilizing any other form of paid time off. If paid sick time is exhausted, the employee has the option of utilizing other paid time off or converting to unpaid status.

Payments received under the Sick Leave Extension subheading of this policy are treated the same as sick time.

Protection from Discrimination:

A supervisor may not take any adverse action or otherwise discriminate against an employee or prospective employee who has an approved FMLA, or other City leave. A supervisor may not interfere with any rights provided by FMLA, including:

- Refusing to authorize FMLA leave.
- Discouraging an employee from using FMLA leave.
- Changing the essential functions of the employee's job to preclude the taking of FMLA leave.
- Reducing hours of work to avoid employee eligibility.

A supervisor may not discharge or discriminate against any person (whether or not an employee) because that person has:

Opposed or complained about any unlawful practice under the Act.

- Filed a charge or has instituted (or caused to be instituted) any proceeding under or related to the Act.
- Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the Act.
- Testified, or is about to testify, in any inquiry or proceeding relating to a right under the Act.
- Used FMLA leave.

Poster Requirement:

As an employer of 50 or more, we are required to post an enlarged version of attachment 1 (Notice to employees of Rights under FMLA) prominently where it can be readily seen by employees and applicants for employment. The poster and the test must be large enough to be easily read and contain fully legible text.

Non-Union Sick Bank Leave Policy

Applicability:

Employee eligibility under this policy shall be limited to exempt, full-time, regular City of Providence employees. Employees must be employed with the City of Providence for a minimum of one year (12 consecutive months) to be eligible to donate and/or receive donated sick/personal time.

The existence of this policy does not represent a short-term or long-term disability benefit for the employee. Donating into the bank does not guarantee any grant of sick leave time, and sick leave time will be granted according to the provisions herein.

Purpose:

The City of Providence recognizes that employees may experience a family medical emergency or be affected by a major disaster, resulting in a need for additional paid sick time off in excess of their accrued sick/personal time. To address this potential need, the City will allow all eligible City employees to donate accrued paid sick/personal leave hours from their unused balance to a sick bank, so that eligible employees in need of additional paid time off may apply for and potentially be granted paid sick leave in excess of that which they have accrued, in accordance with the policy outlined below.

Any employee who has questions or concerns about this policy should reach out the Human Resources Department via email at HR@providenceri.gov or 401-680-5616.

Policy:

The Sick Leave Bank (SLB) is a pool of sick/personal time voluntarily donated by non-union employees who are not eligible for Paid Sick Leave (PSXL) under the Collective Bargaining Agreement (CBA), who meet the eligibility criteria and guidelines below for a qualifying illness or major disaster.

Guidelines:

Employees who wish to request donated sick/personal time from the City's Sick Leave Bank must be experiencing a situation that meets one of the following criteria:

- **Medical emergency**, defined as an acute and unforeseen medical condition of the employee or an immediate family member which requires the absence of the employee from work and which will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available. Eligible family members are defined as:
 1. A legal spouse or a registered Domestic Partner and is receiving City health benefits.
 2. A person under 18 years of age, or a person incapable of self-care because of a physical or mental disability who is a biological, adopted, foster or stepchild, or a ward of the employee.
 3. A person for whom the employee is charged with a parent's legal rights, duties and responsibilities.
- **Major disaster**, defined as a disaster declared by the president under §401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), or as a major disaster or emergency declared by the President of the United States pursuant to 5 U.S.C. §6391 for federal government agencies. An employee shall be considered to be adversely affected by a major disaster if the disaster has caused severe hardship to the employee or to an immediate family member of the employee which requires the employee to be absent from work.

Donation of Time to the Sick Leave Bank:

- The donation of sick/personal time by any City of Providence employee is strictly voluntary.
- Employees wishing to donate accrued sick/personal time will be required to complete a Sick Leave Bank Donation and Consent form, which shall be submitted to the City's Human Resources Department for processing.
- Donated sick/personal time will be placed into a Sick Leave Bank for use by eligible employees of the City of Providence.
- The identity of employees granted Sick Leave Bank time will not be disclosed to donating employees.
- The donation of sick/personal time shall be limited to half day or full day increments, without regard to the dollar value of the donated or granted leave.
- The minimum number of sick/personal hours that an eligible employee may donate shall be 3.5 hours per calendar year; and the maximum shall be limited to 70 hours (two weeks) per calendar year, or no more than 50 percent of the employee's current accrued Sick Leave balance.
- Employees may not borrow against future sick/personal time in order to donate to the City's Sick Leave Bank.
- The City will conduct an annual appeal to encourage employees to donate sick leave hours to the Sick Leave Bank. The appeal will include information about the purpose and benefits of the Sick Leave Bank, as well as instructions for making donations. The timeframe for the annual appeal will be annually in December.
- Employees shall be able to donate sick/personal time at any period, or when a request is made known.
- Employees who are on Workers' Compensation Leave, or on any approved medical leave or general leave of absence, will not be allowed to donate accrued sick/personal time.
- Employees donating accrued time to the City's Sick Leave Bank shall be responsible for any and all tax consequences of such donation and are advised to consult with their tax professional before donation.

Requesting Time from the Sick Leave Bank:

- All applications for sick bank time for the reason of Medical Emergency for the employee or qualifying family member, under this policy shall be accompanied by a doctor's note including a statement from the treating physician, explaining the illness, the day on which the absence will commence and a probable return date.
- The eligible employee must show the need to care for an eligible family member who has a Medical Emergency. Eligible family members are defined as:
 1. A legal spouse or a registered Domestic Partner and is receiving City health benefits.
 2. A person under 18 years of age, or a person incapable of self-care because of a physical or mental disability who is a biological, adopted, foster or stepchild, or a ward of the employee.
 3. A person for whom the employee is charged with a parent's legal rights, duties and responsibilities.
- If the recipient employee has available time in their accrual balance (i.e. sick, personal, vacation, comp time, PTO, or float), this time must be discharged prior to the issuance of any donated sick/personal time. Donated sick/personal time may only be used for time off related to the approved request.
- Donated time may not be retroactive (i.e., donated time cannot be applied to any employee absence prior to the date on which the required medical documentation is received by the Human Resources Department).

- Sick bank leave may be used intermittently or on a continuous basis as necessary and approved by Human Resources as well as the Department Director.
- Sick bank leave may also run concurrently with Family and Medical Leave Act (FMLA) or applicable state laws.
- Exempt employees who apply for and are granted donated time may receive no more than 210 hours (6 weeks) of paid Sick Leave Bank time within a rolling 12-month period.
- Employees accepting donated time from the City's Sick Leave Bank shall be responsible for any and all tax consequences of such donation and are advised to consult with their tax professional before acceptance.

Administration:

- 1) The employee who is requesting donated time from the City's Sick Leave Bank is required to submit the leave request through Asana and will receive a packet including an application form and instructions, due back to the Human Resources Department within fifteen (15) calendar days.
- 2) The Human Resources Department will review each request for Sick Bank Leave on a case-by-case basis and determine eligibility based on the provided documentation. All applications to withdraw time from the Sick Leave Bank shall be reviewed and approved by the City's Chief Human Resources Officer (CHRO), or their designee.
- 3) The amount of Sick Bank Leave granted to an employee will be determined by the Human Resources Department in conjunction with the medical documentation. Additionally, approvals will consider the balance of time available in the Sick Leave Bank.
- 4) The employee will be notified in writing of the decision. If granted, the leave time will be deposited into the employee's leave bank via the Payroll Department. The employees' department will also be notified. If the CHRO votes to deny the request, the employee may appeal the decision. An appeal is made in writing to the CHRO. Only one (1) appeal per request for Sick Leave Bank benefits may be made by an employee. The decision of the CHRO upon the appeal is final and binding.
- 5) Sick Bank Leave will be granted in half or full-day increments and will be deducted from the employee's Sick Bank Leave balance.

Excess Donated:

Time Donated time will be processed in increments of half or full days. In the event the employee returns to work before using all of their processed time donation, the recipient will retain the excess as sick leave. Donations may not be revoked.

Return to Work:

- Employees on Sick Bank Leave for their own injury must provide medical clearance from their healthcare provider before returning to work.
- Failure to provide the necessary medical documentation or comply with the return-to-work requirements may result in disciplinary action, up to and including termination of employment.

Confidentiality:

- All information regarding an employee's medical condition and access to the Sick Leave Bank will be kept confidential in accordance with applicable privacy laws and company policies.
- Disclosure of any confidential information related to the Sick Leave Bank is strictly prohibited.

Note: Nothing in this Policy shall be construed as superseding the existing City Policy or limiting or extending the maximum allowable absences as mandated under the Family and Medical Leave Act or the Rhode Island Parental and Family Medical Leave Act.

II. Purpose:

The purpose of this SOP is to inform supervisors of the employees about their rights and responsibilities under federal and state leave laws.

III. Scope/Tasks:

The procedure outlines all aspects of the processes of handling Leaves of Absence, and accounts for all reasonable referral sources and all reasonable outcomes of disciplinary action. The scope includes:

1. Provide consultation to address attendance/absence concerns; to confirm whether conduct has violated City policies or procedures.
2. Applying and documentation collection process.
3. Review of the Employee's previous leaves and eligibility for new leave.
4. Communication with the employee and supervisor.
5. Designation- Approval or Denial.
6. Return to work/ Fitness for duty.

IV. Abbreviations and Definitions:

ADA-Americans with Disabilities Act (42 U.S.C. 12101 et seq., as amended).

Certification form- Certification of Health Care Provider

CHRO- Chief Human Resources Officer

FMLA- means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq., as amended).

HCP-Health Care Provider

HR- Human Resources

RIPFMLA- Rhode Island Parental and Family Medical Leave Act

As Soon as Practicable - As soon as possible and practical taking into account all of the facts and circumstances in the individual case. Ordinarily, it would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

Authentication of Certification - Providing the health care provider with a copy of the certification and requesting verification that the information contained on the form was completed and/or authorized by the health care provider who signed the document.

Change in Circumstances - During the course of taking FMLA leave, the circumstances regarding the leave may change. For example, the employee may discover that more leave than planned is necessary for recovery from the employee's own or a family member's serious health condition. Conversely, recovery may be faster than anticipated and less leave is required. The employee may wish to return to work sooner than planned. The supervisor may require the employee to provide reasonable notice of these changed circumstances. Reasonable notice usually means within two business days.

Clarification of Certification - Contacting the provider to understand the handwriting on the medical form, or to understand the meaning of a response to a question on the document.

Combined Leave for Spouses - A husband and wife who are both employed by the City are limited to a combined total of 12 weeks of FMLA to care for a parent with a serious health condition; or for the birth,

adoption, or foster placement of a child. Military caregivers leave for spouses is limited to a combined total of 26 weeks.

Concurrent Use of Paid Leave and FMLA Leave -The City requires employees to use their accrued sick time while out on FMLA. Once the employee's sick time accrual balance is zero- the employee can elect to go unpaid or use their other accrual balances (i.e. float, vacation time). The City will designate the leave is FMLA, if applicable, and notify the employee that accumulated leave will run concurrently. Any other City leave applied and eligible for and absences due to a work-related illness or injury will also run concurrent with FMLA/RIPFMLA.

Continuous Leave - Refers to the continuous period of leave taken under FMLA, or other City leave for a single qualifying reason, such as the birth of a child, a serious health condition of the employee or an immediate family member, or for military caregiver leave. It means that the leave is taken all at once rather than intermittently or in separate blocks of time.

Extended Illness - An employee absent more than three consecutive workdays per one month period or five (one) hour instances per one month period due to personal illness or for illness in the employee's immediate family shall submit a medical documentation of the illness(s). If the absences meet the definition of serious health condition a medical certification shall need to be completed by a health care provider as defined by the Family and Medical Leave Act.

Foreseeable Leave - An employee must give at least 30 days advance notice to Human Resources of the need to take family leave when it is foreseeable for the birth or adoption of a child or for medical treatment by completing a request for Family and Medical Leave form.

If 30 days' notice is not practicable, because of not knowing approximately when leave will be required to begin, a change in circumstances, medical emergency, notice must be given as soon as practicable (as defined above).

Incomplete Certification - The submitted documentation is missing one or more of the applicable entries.

Insufficient Certification - The document is complete but the requested information is vague, ambiguous, or non-responsive. The employee must be given at least seven (7) calendar days (unless not practicable under the circumstances despite the employee's diligent good faith efforts) to cure the deficiency.

Intent to Return to Work - Human Resources will check in with an employee out on continuous leave a week before the expected return to work date. An employee's request for reinstatement following family and medical leave or Employees not eligible for FMLA with any other leave 3 or more consecutive days for the employee's own serious health shall provide, before resuming work, a fitness for duty certificate. The City requires certification of the employee's ability to perform essential job functions.

Any time the employee gives unequivocal notice of intent not to return to work, the City obligations under the FMLA stop. This means the City is not required to restore the employee to an equivalent job.

Intermittent Leave - When medically necessary or in the case of a qualifying exigency, an employee may take leave intermittently or on a reduced schedule. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule reduces the usual number of working days per workweek or hours per workday. The City limits leave increments to the shortest period of time that its payroll system uses to account for absences or use of leave. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave.

Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Non-Foreseeable Leave - When the need for leave, or its approximate timing is not foreseeable, an employee shall provide notice to their immediate supervisor and the Human Resources Department as soon as practicable (as defined above) under the facts and circumstances of the particular case. Ordinarily, notice shall be provided within no more than one or two working days of learning of the need for leave. Notice should be provided either by completing the Asana leave request form, in person, by telephone, fax machine, or other email.

Rolling 12-month Calendar- The retrospective 12-month period as measured backward from the date the employee began using FMLA leave.

To determine if an employee is eligible for FMLA leave during any given work week* on a "rolling year" basis, one looks back over the 12 months immediately preceding that week. If the employee has not utilized the equivalent of 12 weeks of FMLA-qualifying leave in the 12 months prior to the date in question, then the employee is eligible for that week of leave (assuming all other eligibility criteria are met). In utilizing a rolling year, this analysis may be conducted each week to determine continued eligibility.

Serious Health Condition - A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

State Military Leave: Short-Term - All employees of the City of Providence who are members of the state military forces or of the reserve components of the United States Armed Forces shall be granted a leave of absence from their duties without loss of time, efficiency rating, vacation time, or salary on all days during which they are engaged in authorized training or duty ordered or authorized by proper authority, not to exceed fifteen (15) days. Such employees who are ordered to duty by proper authority shall be restored, when relieved from duty to the position held by them when ordered to duty. Employee must provide proof of military salary to allow for calculations of compensation amounts in accordance with the City Ordinance

Workers Compensation Leave - The provision for substituting an employee's paid leave does not apply to a workers' compensation absence. An employee absent because of a job-related injury or illness shall be assigned to family and medical leave, if applicable.

V. Responsibilities:

Human Resources Department:

- **Human Resources Generalist:** As a leave administrator responsible for:
 - **Determining Eligibility:** Assess employees' eligibility for different types of leave, including FMLA, RIFFMLA, Sick Leave Extensions, Paid Parental Leave, General Leaves of Absence, Non-Union Sick Bank Leave, Military Leave (USERSSA) and other applicable categories based on their tenure, employment status, and specific criteria of the leaves eligibility requirements.
 - **Issuing Leave Documents:** Prepare and distribute leave-related documents to employees, including leave request forms, FMLA eligibility notices, designation notices, missing or incomplete documentation letters, and any other required paperwork.
 - **Reviewing Leave Requests:** Thoroughly review all leave of absence requests submitted by employees, ensuring they are complete and accompanied by appropriate documentation, such as medical certificates or supporting evidence.
 - **Verification of Supporting Documentation:** Verify the authenticity and validity of supporting documentation provided by employees, such as medical certifications or legal documents, to justify the need for leave.
 - **Communicating Decisions:** Communicate decisions regarding leave requests to employees in a timely and transparent manner, providing clear explanations for approvals, denials, or requests for additional information.
 - **Ensuring Completion of FMLA Tracking Usage:** Ensuring supervisors complete the required tracking sheet no later than one week after the employee returns or completes their leave.
 - **Record Keeping and Documentation:** Maintain accurate and confidential records of all leave of absence requests, approvals, denials, and related correspondence in accordance with record-keeping policies and legal requirements.
 - **Training and Guidance:** Provide training and guidance to directors, supervisors, and employees on leave policies, procedures, and legal requirements to ensure awareness and compliance throughout the organization.
 - **Monitoring Trends and Metrics:** Monitor trends in leave utilization, including frequency, duration, and reasons for leave, and analyze relevant metrics to identify patterns, issues, or areas for improvement.
- **Senior Human Resources Generalist:**
 - **All the duties of the HR Generalist &**
 - **Policy Adherence:** Ensure that all leave of absence requests align with city policies, procedures, and applicable laws such as the Family and Medical Leave Act (FMLA), Americans with Disabilities Act (ADA), and other relevant regulations.
 - **Collaboration with Legal Counsel:** Collaborate with legal counsel to ensure that leave of absence decisions comply with relevant labor laws, regulations, and collective bargaining agreements.
 - **Risk Management:** Identify potential risks associated with approving or denying leave requests, such as legal liabilities, and take appropriate measures to mitigate these risks.
 - **Continuous Improvement:** Continuously evaluate and update leave policies, procedures, and practices to reflect changes in laws, regulations, organizational needs, and best practices in leave management.
 - Provide consultation as necessary to address staffing shortages, or operational disruptions and to confirm whether conduct has violated City policies or procedures.

- **Manager of Risk & Workers Compensation:** When the Family and Medical Leave Act (FMLA) exhausts, and an employee requires further accommodations due to a disability, the Manager of Risk and Workers Compensation plays a critical role in ensuring compliance with the Americans with Disabilities Act (ADA) and managing associated risks by:
 - **Initiating the Interactive Process:** The Manager of Risk and Workers Compensation should promptly initiate the interactive process with the employee. This involves discussing the nature of the disability, functional limitations, and potential accommodations that could enable the employee to perform essential job functions.
 - **Documentation and Record-Keeping:** The Manager of Risk and Workers Compensation will keep accurate documentation throughout the ADA process by documenting all interactions, accommodation requests, and any decisions made.
 - **Collaboration with HR and Management:** The Manager of Risk and Workers Compensation will collaborate closely with the HR Generalist, CHRO and department director/supervisor throughout the ADA accommodation process.
- **CHRO:** As the Chief Human Resources Officer (CHRO), reviewing and approving City leaves of absences is a crucial aspect of your role in ensuring compliance, fairness, and efficient workforce management by:
 - **Policy Adherence:** Ensure that all leave of absence requests align with city policies, procedures, and applicable laws such as the Family and Medical Leave Act (FMLA), Americans with Disabilities Act (ADA), and other relevant regulations.
 - **Reviewing Leave Requests:** Thoroughly review all leave of absence requests submitted by employees, ensuring they are complete and accompanied by appropriate documentation, such as medical documentation or supporting evidence.
 - **Ensuring Consistency:** Ensure consistency in the application of leave policies and procedures across all departments and employee categories to promote fairness and prevent discrimination or favoritism.

Department:

- **Supervisor:**
 - **Understanding Leave Policies:** Familiarize themselves with the organization's leave policies, including FMLA, sick leave, personal leave, and any other applicable types of leave. This includes understanding eligibility criteria, entitlements, and procedures for requesting and reporting leave.
 - **Communicating Policies:** Clearly communicate leave policies and procedures to their team members, ensuring that employees understand their rights and responsibilities regarding leave usage, request procedures, and documentation requirements.
 - **Recognizing FMLA Qualifying Events:** Be knowledgeable about FMLA qualifying events, such as serious health conditions of employees or their family members, childbirth, adoption, or placement of a foster child, and recognize when employees may be eligible for FMLA leave.
 - **Tracking FMLA Usage:** Track employees' FMLA/RIPFMLA usage, including the amount of leave taken, remaining FMLA entitlement, intermittent leave schedules, and any FMLA-related absences. Supervisors should maintain accurate records of leaves taken by team members and ensure that any patterns of excessive absenteeism are addressed appropriately.
 - **Facilitate a smooth transition back to work:** Upon the employees return to work supervisors will collect a return to work note if applicable and send a copy to HR.

- **Maintaining Confidentiality:** Respect the confidentiality of employees' medical information and other sensitive personal circumstances related to leave requests. Supervisors should only share information on a need-to-know basis and handle leave-related discussions with discretion and sensitivity.
- **Avoiding Retaliation:** Refrain from retaliating against employees for exercising their rights under FMLA or other leave policies. Supervisors should treat employees who request leave or are on leave with fairness, respect, and professionalism, avoiding any adverse actions or discriminatory treatment based on their leave status.
- **Seeking Guidance:** Seek guidance from HR or higher-level management if they encounter complex or unusual leave situations, such as conflicting requests for leave, suspected abuse of leave policies, or accommodations needed for employees with disabilities.
- **Employee:**
 - **Providing Notice:** Provide advance notice of their need for leave whenever possible, particularly for foreseeable events such as planned medical treatments or the birth/adoption of a child. For FMLA leave, provide at least 30 days' notice when the need for leave is foreseeable, or as soon as practicable if the need for leave is unexpected.
 - **Submitting Documentation:** Submit required documentation to support their leave requests, such as medical certifications from healthcare providers for FMLA leave or other relevant documentation as specified by the organization's policies.
 - **Communicating Absences:** For intermittent leaves employees should notify their supervisor in a timely manner if they need to take FMLA time.
 - **Cooperating with Requests:** Cooperate with any reasonable requests from their employer for additional information or clarification related to their leave request, including providing updates on their medical condition or treatment progress as needed.
 - **Using Leave Appropriately:** Use leave time appropriately and in accordance with the City's policies and procedures. This includes avoiding abuse or misuse of leave privileges and adhering to any restrictions or limitations specified by their healthcare provider.
 - **Understanding Return-to-Work Requirements:** Understand the City's requirements for returning to work after a leave of absence, including any documentation or clearance needed from healthcare providers and any expectations for transitioning back to full duties.
 - **Seeking Assistance if Needed:** Seek assistance or clarification from HR or their supervisor if they have questions or concerns about their rights or responsibilities regarding FMLA or other leave options.

VI: Family Medical Leave Act (FMLA):

a) Federal FMLA Leave -

FMLA allows employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. The FMLA seeks to accomplish this in a manner that accommodates the legitimate interests of employers and minimizes the potential for employment discrimination.

- **Purpose:** FMLA aims to balance the demands of the workplace with the needs of families by allowing eligible employees to take unpaid leave for specific family and medical reasons without risking their job security.
- **Eligibility:** To be eligible for FMLA, employees of the City of Providence must have worked for at least 12 months, have worked at least 1,250 hours during the 12 months preceding the start of the leave.
- **Qualifying Reasons:** FMLA provides leave for specific qualifying reasons, including the birth or adoption of a child, to care for a newborn or newly adopted child, to care for a family

- member with a serious health condition, or for the employee's own serious health condition that makes them unable to perform their job.
- **Duration of Leave:** Eligible employees can take up to 12 weeks of unpaid leave during a 12-month period for FMLA-qualifying reasons. Additionally, FMLA provides up to 26 weeks of leave to care for a covered service member with a serious injury or illness incurred in the line of duty.
- **Job Protection:** FMLA ensures that eligible employees who take leave are entitled to return to their same or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
- **Health Benefits and Seniority:** During FMLA leave, employers are required to maintain the employee's group health insurance coverage under the same terms as if the employee had not taken leave. Additionally, employees' seniority and accrued benefits must continue to accrue while on FMLA leave.
- **Notice and Documentation:** Employees must provide advance notice of their need for FMLA leave when possible and are required to provide documentation, such as medical certifications, to support their leave request.
- **Intermittent and Reduced Schedule Leave:** FMLA allows eligible employees to take leave intermittently or on a reduced schedule basis when medically necessary, such as for ongoing medical treatments or to care for a family member with a serious health condition.
- **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, or denying the exercise of FMLA rights by eligible employees. Additionally, employers are prohibited from retaliating against employees for exercising their FMLA rights.
- **Enforcement:** The U.S. Department of Labor's Wage and Hour Division administers and enforces FMLA regulations, investigating complaints and ensuring compliance with the law.

b) Rhode Island Parental and Family Medical Leave Act (RIPFMLA)-

RIPFMLA is a state law that provides eligible employees in Rhode Island with the right to take unpaid leave for various family and medical reasons.

- **Purpose:** The RIPFMLA aims to balance the needs of employees to take unpaid time off from work for family and medical reasons with the requirements of employers to provide job-protected leave.
- **Eligibility:** To be eligible for FMLA, employees of the City of Providence must have worked for the previous 12 months continuously, during which time they must have worked on average 30 hours per week for the previous 12 months.
- **Qualifying Reasons:** RIPFMLA allows eligible employees to take leave for various reasons, including the birth or adoption of a child, to care for a newborn or newly adopted child, to care for a family member with a serious health condition, or for the employee's own serious health condition.
- **Duration of Leave:** Eligible employees can take up to 13 continuous weeks of unpaid leave in a 24-month period for RIPFMLA-qualifying reasons.
- **Job Protection:** RIPFMLA provides job protection to employees who take leave, ensuring that they are entitled to return to their same position or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
- **Health Benefits:** Employers are required to maintain employees' group health insurance coverage under the same terms as if the employee had not taken leave during the period of RIPFMLA leave.

- **Notice and Documentation:** Employees are generally required to provide advance notice of their need for RIFFMLA leave when possible and are required to provide documentation, such as medical certifications, to support their leave request.
- **Continuous Leave:** RIFFMLA only allows eligible employees to take leave continuously. Intermittent or reduced schedules would not be applicable.
- **Small Necessities law-** Leave will be granted to attend a child's qualifying school activity *limited to 10 hours in a 12-month period.
- **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, or denying the exercise of FMLA rights by eligible employees. Additionally, employers are prohibited from retaliating against employees for exercising their FMLA rights.
- **Enforcement:** The Rhode Island Department of Labor and Training administers and enforces RIFFMLA regulations, investigating complaints and ensuring compliance with the law.

VII. Other City Leaves

a) Paid Parental Leave (Non-Union)-

- **Purpose:** Paid parental leave aims to support management employees in balancing their work responsibilities with the demands of caring for a new child, promoting employee well-being, gender equality, and family stability.
- **Eligibility:** Must be a non-union, management employee. Must be a City employee for 12 consecutive months. Must not have used any other leave entitlements during the previous 12 months. Must be in good standing with an acceptable performance record as determined by the Chief Human Resources Officer (CHRO).
- **Qualifying Reasons:** The birth or adoption of a child, to care for a newborn or newly adopted child.
- **Duration of Leave:** Approvals for paid parental leave require the employee to discharge all but 2 weeks of paid time off prior to receiving leave with pay. Up to 6 weeks of paid leave to accommodate the birth, adoption, or foster placement of a child in the home.
- **Job Protection:** Paid parental leave provides job protection to employees who take leave, ensuring that they are entitled to return to their same position or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
- **Health Benefits:** Employers are required to maintain employees' group health insurance coverage under the same terms as if the employee had not taken leave during the period.
- **Notice and Documentation:** Employees are generally required to provide 30 days advance notice of their need for Paid Parental leave. Employees are required to provide an application to support their leave request.
- **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, the exercise of leave by eligible employees.
- **Enforcement:** The Human Resources Generalists and CHRO enforce Paid Parental Leave eligibility, and entitlements.

b) Sick Leave Extension (Union)-

- **Purpose:** Sick leave extension aims to support union employees in balance the needs of employees to take time off from work for their own serious medical reasons with the requirements of employers to provide job-protected leave.
- **Eligibility:** Any employee represented by the Laborer's Union Local 1033 with at least 5 years continuous service, who has a serious illness. Subject to Department and CHRO approval.
- **Qualifying Reasons:** An employee with a serious health condition.

- **Duration of Leave:** Approvals for paid parental leave require the employee to discharge all accrued time. Sick leave extensions are granted in 30-day increments not to exceed 90 days. Employees are entitled to three 30-day extensions over the course of their employment with the City.
 - **Job Protection:** Sick leave extension provides job protection to employees who take leave, ensuring that they are entitled to return to their same position or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
 - **Health Benefits:** Employers are required to maintain employees' group health insurance coverage under the same terms as if the employee had not taken leave during the period.
 - **Notice and Documentation:** Employees are generally required to provide 30 days advance notice of their need for sick leave extensions. Employees are required to provide an application to support their leave request.
 - **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, the exercise of leave by eligible employees.
 - **Enforcement:** The Human Resources Generalists and CHRO enforce the sick leave extension eligibility, and entitlements.
- c) **Non-Union Sick Bank Leave-**
- **Purpose:** The non-union sick bank aims to support management employees in balance the needs of employees to take time off from work for medical emergency or suffering from a major disaster with the requirements of employers to provide job-protected leave.
 - **Eligibility:** Any employee non-union employee, who has a medical emergency or is suffering from a major disaster. Subject to CHRO approval.
 - **Qualifying Reasons:** An employee with a medical emergency or is suffering from a major disaster.
 - **Duration of Leave:** Approvals for non-union sick bank leave require the employee to discharge all accrued time. Non-union sick bank leave is granted in hourly increments not to exceed 210 hours in a rolling 12-month period.
 - **Job Protection:** Non-union sick bank leave provides job protection to employees who take leave, ensuring that they are entitled to return to their same position or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
 - **Health Benefits:** Employers are required to maintain employees' group health insurance coverage under the same terms as if the employee had not taken leave during the period.
 - **Notice and Documentation:** Employees are generally required to provide 30-day advance notice of their need for non-union sick bank leave. Employees are required to provide an application and medical documentation to support their leave request.
 - **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, the exercise of leave by eligible employees.
 - **Enforcement:** The Human Resources Generalists and CHRO enforce the non-union sick bank leave eligibility, and entitlements.
- d) **General Leave of Absence-**
- **Purpose:** The general leave of absence aims to support all employees in balance the needs of employees may be granted leave for personal illness, disability or other purposed deemed proper and approved by their Department Director and CHRO; with the requirements of employers to provide job-protected leave.
 - **Eligibility:** Any employee. Subject to department and CHRO approval.
 - **Qualifying Reasons:** An employee with a personal illness, disability or other purposed deemed proper and approved by their Department Director and CHRO

- **Duration of Leave:** Not to exceed 1 year duration. While on leave, the utilization of your accrual balance is required. Going unpaid subject to the approval of the Chief Human Resources Officer (CHRO). Except for employees on leave for medical reasons- employees on unpaid leave of any nature will not accrue sick and vacation time after 26 weeks of unpaid leave. While on a leave for medical reasons it is mandatory to discharge all accrued sick time.
- **Job Protection:** General leave of absences provides job protection to employees who take leave, ensuring that they are entitled to return to their same position or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
- **Health Benefits:** Employers are required to maintain employees' group health insurance coverage under the same terms as if the employee had not taken leave during the period.
- **Notice and Documentation:** Employees are generally required to provide 30-day advance notice of their need for general leave of absence. Employees are required to provide an application and documentation to support their leave request.
- **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, the exercise of leave by eligible employees.
- **Enforcement:** The Human Resources Generalists and CHRO enforce the general leave of absence eligibility, and entitlements.

e) **Military Leave-**

- **Purpose:** Military leave of absence aims to support all employees in active service to ensure they can fulfill their duty to their country without fear of losing their civilian employment or facing negative consequences.
- **Eligibility:** Any full-time employees who have been continuously employed for at least 6 months and who by reason of membership in the active reserve forces of the United States or member of RI National Guard with orders for duty.
- **Qualifying Reasons:** An employee with orders for duty from their military branch.
- **Duration of Leave:** Military leave can be paid or unpaid leave. City policy grants paid time for up to 15 days in 1 year. Employees requesting more than 15 days of paid military leave must provide proof of military salary to allow for calculations of compensation amounts in accordance with the City Ordinance.
- **Job Protection:** Military leave provides job protection to employees who take leave, ensuring that they are entitled to return to their same position or an equivalent position with the same pay, benefits, and terms of employment upon their return from leave.
- **Health Benefits:** Employers are required to maintain employees' group health insurance coverage under the same terms as if the employee had not taken leave during the period.
- **Notice and Documentation:** Employees must give written or verbal notice along with (if available), a copy of the military orders to their supervisor and Department of Human Resources at least 2 weeks prior to the start date of the military leave of absence.
- **Protection from Retaliation:** Employers are prohibited from interfering with, restraining, the exercise of leave by eligible employees.
- **Enforcement:** The Human Resources Generalists and CHRO enforce military leave eligibility, and entitlements.

VIII. How to Request a Leave:

Requesting a leave of absence involves formally submitting a request with the Asana Leave Request Form, detailing the dates and reason for the absence, and adhering to company policies and procedures. Ordinarily, at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee. Or if the leave is foreseeable an employee must give at least 30 days' advance notice to the employer.

a) 15-Day Deadline-

Returning FMLA documentation or application and supporting documentation for other City leaves promptly is crucial to ensure compliance with the law and maintain job protection during periods of leave, as well as compliance with City policy.

Employees have a 15-day deadline from the time that leave packets are mailed to submit the required paperwork, including medical certifications or other supporting documentation, to the leave administrator in the HR Department.

Meeting the deadline is essential for the timely processing of leave requests and ensures that employees can access the benefits and protections provided by FMLA/ other City leaves. Failure to submit documentation within the specified timeframe may result in delays or denial of leave, risking job security and benefits continuity.

b) Missing/Incomplete Documentation Extension-

Recognizing the complexities individuals face in gathering necessary documentation, FMLA grants a crucial 7-day extension beyond the initial deadline for submitting required paperwork, which the City of Providence also grants to the other leaves offered.

This extension offers valuable flexibility, ensuring employees have adequate time to secure medical certifications or other necessary documentation without compromising their job security. By allowing this additional window, it empowers employees to navigate their or their family's health needs effectively while upholding their workplace rights, fostering a more supportive and accommodating work environment for all.

c) Provisional Designation-

FMLA-related leave taken before the 15-day deadline will be provisionally designated as FMLA leave, as employees must be given sufficient time to produce the required documentation, no actual notice for this designation is generated. Effectively, employees who take FMLA-related leave during this provisional period will be afforded the full benefits of FMLA leave. If no documentation supporting the leave is not turned in the leave will be denied, and the provisional designation would no longer be valid.

IX. FMLA Certification:

The Family and Medical Leave Act (FMLA) certification process is designed to ensure that employees are eligible for protected leave under FMLA and to validate the need for such leave. The employee fills out the relevant sections of the FMLA certification form, providing details about the reason for leave, the expected duration of leave, and any other pertinent information. The employee's (or family members) healthcare provider must also their required sections of the certification form. This section typically includes medical information supporting the need for leave, such as diagnosis, treatment plan, and

expected duration of incapacity. Once completed, the employee submits the FMLA certification form to their employer within the specified timeframe.

A continuous period of leave is defined as leave is taken all at once rather than intermittently or in separate blocks of time. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule reduces the usual number of working days per workweek or hours per workday. The City limits leave increments to the shortest period of time that its payroll system uses to account for absences or use of leave. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave.

Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

a) Clarification or authentication of the certification form-

Employees must return sufficient and timely information to certify their FMLA leave. Certification of FMLA medical leave is relatively easy to determine, as the certification forms each contain a box which the practitioner will check if an FMLA condition is present.

HR Generalists: Medical documentation provided by the employee may contain medical diagnosis, medical history, or a list of medications used in the treatment plan. This is confidential information and should not be forwarded or shared with other employees, except in the course of business for leave purposes or FMLA benefits. Employees should be encouraged to submit documentation directly to their HR Generalist / Leave Administrator.

Employers who receive a complete and sufficient certification form signed by the health care provider may not request additional information from the provider. However, the employer may contact the health care provider for purposes of clarification or authentication of the document after the employer has given the employee an opportunity to cure any of the deficiencies in the document.

- Leave Administration should be consulted prior to obtaining clarification or authentication of a document.
- An employee's direct supervisor may not make contact with the health care provider; employer contact with the provider may be made only by a human resource professional, leave administrator, or a management official not in the employee's chain of authority.
- "Clarification" means contacting the provider to understand the handwriting on the medical form, or to understand the meaning of a response to a question on the document.
- "Authentication" means providing the health care provider with a copy of the certification and requesting verification that the information contained on the form was completed and/or authorized by the health care provider who signed the document.
- Questions directed to the provider regarding clarification or authentication are strictly limited to the questions on the certification form.

b) Complete and Sufficient Certification-

The employee must provide a complete and sufficient certification to the employer. The employer must advise the employee in writing whenever the employer finds a certification incomplete or insufficient.

- Leave Administration should be consulted if information received is incomplete or otherwise insufficient.

- “Incomplete” means the submitted documentation is missing one or more of the applicable entries.
- “Insufficient” means the document is complete but the requested information is vague, ambiguous, or non-responsive.
- The employee must be given at least seven calendar days (unless not practicable under the circumstances despite the employee’s diligent good faith efforts) to cure the deficiency.

c) Requesting an Updated Certification Form-

In addition to requesting updated information for reasons outlined above , administrators may request an updated certification form if there is a change in circumstances, such as:

- The employee is missing more work than the physician has indicated is needed; or
- The employee’s current certification form for the condition on file is no longer applicable (i.e., the physician has indicated the employee may return to work without restrictions).

The employee must be notified of the need for an updated certification form in writing and must be given at least 15 calendar days to provide the information. Additionally, employers may not request updates within a 6-month period if the certification form indicates a lifetime condition and the employee’s absences are consistent with the physician’s recommendations and estimations of time off needed. The Leave Administrator should contact Employee Relations Manager for guidance in the event an employee is missing work in excess of the time the physician has estimated is needed, per the sick time abuse policy.

d) The Genetic Information Nondiscrimination Act (GINA)-

The Genetic information Nondiscrimination Act requires that the City of Providence take affirmative steps to avoid receiving genetic information about employees or any of their family members. Leave Administrators must use the current GINA-compliant federal certification forms.

X. FMLA Designation:

The HR Generalists will review the submitted medical documentation provided by the employee. The certification form may contain medical diagnosis, medical history, or a list of medications used in the treatment plan. This is confidential information and should not be forwarded or shared with other employees including the supervisor, except in the course of business for leave purposes or FMLA benefits. Employees should be encouraged to submit documentation directly to their HR Generalist/leave Administrator.

a) Retroactive FMLA-

In general, FMLA will not be designated before the date the employee was provided with the FMLA packet. However, there are instances where retroactive designation (FMLA designation before the employee received the packet) may be requested by the employee.

Retroactive FMLA should be designated if:

- submitted medical information supports granting the retroactive leave; and
- the employee suffers no employment harm (termination, demotion, etc.) as a result of the designation.

b) Employee's Failure to Provide Required Documentation-

Employees who fail to provide the required documentation to certify FMLA leave will have their provisional FMLA designation will no longer be valid and will therefore not receive benefits or job protection under the FMLA for those absences. Employees will be notified in writing in the event FMLA leave has been denied.

c) Combined Leave for Spouses-

A husband and wife who are both employed by the City are limited to a combined total of 12 weeks of FMLA to care for a parent with a serious health condition; or for the birth, adoption, or foster placement of a child. Military caregivers leave for spouses is limited to a combined total of 26 weeks.

d) Workers' Compensation Leave-

The provision for substituting an employee's paid leave does not apply to a workers' compensation absence. An employee absent because of a job-related injury or illness shall be assigned to family and medical leave, if applicable.

XI. Employees Return to Work:

Human Resources will check in with an employee out on continuous leave a week before the expected return to work date by sending a return-to-work letter. An employee's request for reinstatement following family and medical leave or Employees not eligible for FMLA with any other leave 3 or more consecutive days for the employee's own serious health shall provide, before resuming work, a fitness for duty certificate. The City requires certification of the employee's ability to perform essential job functions.

XII: FMLA Tracking/ Payroll:

Tracking FMLA time used ensures that all employees have the proper level of accountability in meeting FMLA compliance, for both the benefit of the employee and the employer.

Supervisors need to track how much FMLA leave each eligible employee has taken to ensure they don't exceed this entitlement. FMLA provides eligible employees with up to 12 weeks of unpaid leave during a 12-month period used continuously or intermittently. RIFFMLA provides eligible employees with up to 13 weeks of unpaid leave during a 24-month period used continuously only. The City of Providence uses a rolling 12-month period, meaning the retrospective 12- or 24-month period as measured backward from the date the employee began using FMLA leave.

Supervisors need to accurately track these intermittent leave periods and ensure they are counted towards the employee's FMLA entitlement. Since some employees may have multiple leaves, that could either be intermittent or continuous, it is recommended to use a separate tracking sheet for each leave. When it comes to determining eligibility the leave administrator will compile the leave spread sheets and determine if the employee had time available for leave or not. It is also imperative for supervisors to make sure that employees on intermittent leave are taking time in compliance with their FMLA designation/ approval. Examples of this include:

- If the approval says, "for up to one day", employees can use time in hour increments up to their 7- or 8-hour day.
- If the approval says, "for one day", employees would only be able to use 7 or 8 hours that makes up their full days, they would not be able to use hour increments or half days.

On each Asana task for an employee leave there will be a subtask with a blank FMLA tracking sheet attached. The supervisor should download and save a sheet to track the employees' time away from work as the call outs occur.

The provided excel spreadsheet is set for a 40-hour employee for Federal FMLA 12-week time frame. Supervisors should enter the employees' name, leave start and end date. Supervisors can then edit if the employee is a 35 hour per week or 40 hour per week employee. An employee who works 35 hours per week will be entitled to 420 hours total of FMLA. An employee who works 40 hours per week will be entitled to 480 hours total of FMLA.

If the leave is continuous supervisors should track the FMLA and RIFFMLA time on the same spreadsheet. Since the algorithm is set for Federal FMLA, supervisors should allow for the use of the 520 hours available for RIFFMLA. Meaning that spreadsheet would be complete when the employee has an available of negative 40 hours available.

Supervisors should maintain open communication with their Leave Administrator regarding FMLA usage. Once an employee is down to their last 70 or 80 hours left of their FMLA entitlement supervisors should provide a copy of the tracking sheet to the Leave Administrator, so the employee can be notified of their upcoming exhaustion of leave. Leave Administrator can also provide guidance on FMLA regulations, assist with tracking FMLA time, and ensure compliance with legal requirements.

If supervisors suspect FMLA abuse or have concerns about an employee's FMLA usage, they should reach out to the Leave Administrator to follow company policies and procedures for addressing such issues.

Proper FMLA leave tracking doesn't just focus on tracking when an employee is on leave. It's also important to track how time away from work is logged, which would be entered with each payroll submission. Employees on FMLA are required to use all of their sick time accrual. They can then elect if they are going to be unpaid or use their vacation or float time accruals.

FMLA regulations specify that an employer must account for intermittent leave using increments that aren't greater than the shortest amount of time used for other forms of leave (provided that period is no greater than one hour). In other words, since the lowest time amount for the City of Providence payroll is one hour; FMLA time would need to be used in one-hour increments. Meaning FMLA will not be tracked by the minute for payroll. If you are experiencing issues with submitting payroll, please reach out directly to the payroll department.

Holiday pay while on leave:

Another area where the FMLA tracking, and payroll may differ revolves around holiday pay. Under federal law if the FMLA is taken in weeklong increments the holiday counts as FMLA and would be entered on the FMLA tracking sheet. If the FMLA leave is taken in less than weeklong increments the holiday does not count as FMLA and would not be counted on the FMLA tracking sheet.

Now you might be asking how this effects payroll- City Policy for holiday pay outlines that to be eligible for holiday pay, employees must work during the week that the holiday occurs or during the previous week.

However, if the employee is on leave and utilizing vacation, float or personal time, bereavement or jury duty for at least one day during the week. Employees who discharge paid sick time during the week of the holiday and the entire preceding week, will not receive holiday pay, even if they are on approved medical leave pursuant to FMLA. Employees on approved leave in an unpaid status during the entire week of the holiday and the entire preceding week will not receive holiday pay.

XIII. Coordination of Leaves of Absences

The use of other City paid/unpaid leaves of absence during an FMLA-qualifying leave will decrease, in whole or in part, the amount of FMLA leave available to an Eligible Employee for the following types of paid leave:

- Rhode Island Parental and Family Medical Leave Act (RIPFMLA): If an eligible employee's condition meets the guidelines for the employees or family members serious illness or other qualifying reason under RIPFMLA and they meet the eligibility and entitlement criteria, the FMLA leave and the RIPFMLA leave will run concurrently.
- Multiple FMLA qualifying conditions: The leave administrator will coordinate the eligibility and designation of FMLA qualifying conditions. For example, an employee may have leave for an intermittent leave and then need a continuous leave for the same or another health condition or family member's condition.
- Worker's Compensation: If an eligible employee takes worker's compensation leave for an FMLA-qualifying reason, the employee's FMLA leave, and worker's compensation leave will run concurrently.
- Paid Sick Leave Extension: If an eligible employee's FMLA leave is due to their own Serious Health Condition and the employee has available and applied to use any unused paid sick leave extensions available to them based on leave eligibility, the paid sick leave extension during the FMLA leave will run concurrently. Employees with available paid sick leave extensions may also request sick leave extensions once their FMLA leave entitlement has been exhausted. Paid sick leave approval is based on meeting the eligibility criteria, department and CHRO approval.
- Non-Union Sick Bank Leave: If an eligible employee's FMLA leave is due to their own Serious Health Condition and the employee has available and applied to for non-union sick bank leave available to them based on leave eligibility, the paid sick bank leave will run concurrently during the FMLA leave. Employees who have exhausted all FMLA leave entitlement can apply for non-union sick bank leave, approval is based on meeting the eligibility criteria, department and CHRO approval.
- Paid Parental Leave: Upon exhausting all accrual balance except the 70/80 hours the employee is entitled to retain, an eligible employee who is also eligible for paid parental leave and FMLA leave will run concurrently.
- General Leave of Absence: If an eligible employee's FMLA leave is due to exhaust the full entitlement and the employee requires more time out of work, the employee will work with Leave Administrator to determine the continuation and appropriate use of leave time available.
- Use of accrued time: Upon exhausting all available paid sick leave, an eligible employee may choose to use accrued, paid vacation or float time during an FMLA-qualifying leave. The employee's FMLA leave, and other accrued time would run concurrently.

XIV. FMLA Case Studies

a) Knox v City of Monroe (2009)

- Facts: Ms. Knox began to have attendance issues while employed with the City of Monroe. The supervisor warned Knox that she could be disciplined if she continued to incur excessive absences. He also offered Knox FMLA leave, which she specifically declined. Ms. Knox was later terminated for excessive absenteeism. Knox sued after her discharge, charging that the City of Monroe interfered with her FMLA rights because her supervisor did not warn her that she could be fired for excessive absenteeism if she did not protect herself by taking FMLA leave.
- Court's Finding: The court rejected the claim, stating the supervisor "had no duty under the FMLA to threaten Knox with discharge."
- Human Resources Comments: The City of Providence satisfies its FMLA notice requirements by recognizing that a situation may involve the FMLA and alerting the employee to the availability of FMLA leave. This procedure is satisfied by issuing our FMLA packet. The responsibility of

accounting for FMLA leave passes to the employee upon the packet's receipt, where they then have 15 calendar days (absent extenuating circumstances) to provide sufficient certification.

- Lesson Learned from Case: Employees who decline FMLA leave, or otherwise fail to provide the required FMLA certification, expose themselves to discipline and/or termination.

b) Branham v Gannett Satellite Network (2007)

- Facts: Ms. Deborah Branham worked for Gannett Satellite Information Network as a receptionist and began to miss work for personal health problems on 11/9/2006. She made a doctor's appointment on 11/13 & documentation indicated she could return to work the next day. She didn't report to work the next day, but on 15th & advised her supervisor that she still was not feeling well and would need to miss work for more upcoming doctor's appointments. Branham was asked to fill out a form (which also served as an FMLA leave form) "to see if she qualified for anything" in the area of medical leave. She returned another medical certification form on 11/17 which again indicated she could return to work the next day; furthermore, the form did not trigger eligibility for FMLA leave. She was verbally informed on 11/20 that her job was in jeopardy unless she could provide documentation to show she was not medically able to return to work. Branham did not provide information and was notified in a letter dated 11/24 that she was terminated immediately. However, Branham's physician faxed an updated certification form later in the afternoon on 11/24. The updated statement indicated that she would not be able to return to work for several weeks. Gannett Satellite stood by its decision to terminate, & Branham sued, claiming that her employer interfered with her FMLA rights.
- Court's finding: The court sided with the company, saying it was entitled to terminate the employee because she did not return to work after her initial documentation showed she could return to work. The employee appealed the decision.
- Appellate Court's finding: The decision was reversed; the employee's case will now go to trial or be settled out of court. In short, the appeals court judge ruled that the employer did not advise the employee of her FMLA rights and did not allow her the requisite 15 calendar days to return sufficient documentation.
- Human Resources Comments: The employer should have recognized the definitions of a "serious health condition" under the FMLA and should have immediately issued a packet. As the previous case study, the responsibility of accounting for potential FMLA leave would have passed to Branham upon the packet's receipt. As seen from the timeline of events, the employee was terminated on 11/24, only 11 days after the first absence for her condition.
- Lesson Learned from Case: Learn to recognize the "triggers" of FMLA and immediately issue a packet if the employee's circumstances show they may need FMLA benefits.

c) Atkins v Wayne-Dalton (2010)

- Facts: Mr. Atkins' pregnant wife called him at work and asked him to come to the emergency room because she was having complications. He told his supervisor about the situation & left. When he returned to work five days later, he brought a doctor's note which covered the days in question & called HR to explain his wife's condition. Later that day, she again returns to the ER, & he told his supervisor he had to leave. Atkins was terminated the next day. Atkins sued, alleging that the FMLA covered his time off. The employer argued that:
 - They did not know that Atkins' absences were due to his wife's serious health condition;
 - Atkins' wife did not have a serious health condition; and
 - Atkins' termination was not related to his FMLA leave request.
- Court's finding: The court disagreed with the employer's arguments and ordered a trial.
- Human Resources Comments: The supervisor and HR made crucial legal errors in this case. The supervisor was aware of Atkins' wife's condition since the first ER visit, but the supervisor didn't immediately communicate this information to HR. The employee did notify HR area on the

second visit to the ER; however, HR did not act on this information & didn't provide FMLA notification as is required.

- Lesson Learned from Case: Supervisors and administrators should learn to recognize the “triggers” of FMLA. HR should immediately issue a packet if the employee’s circumstances show the employee may need FMLA.

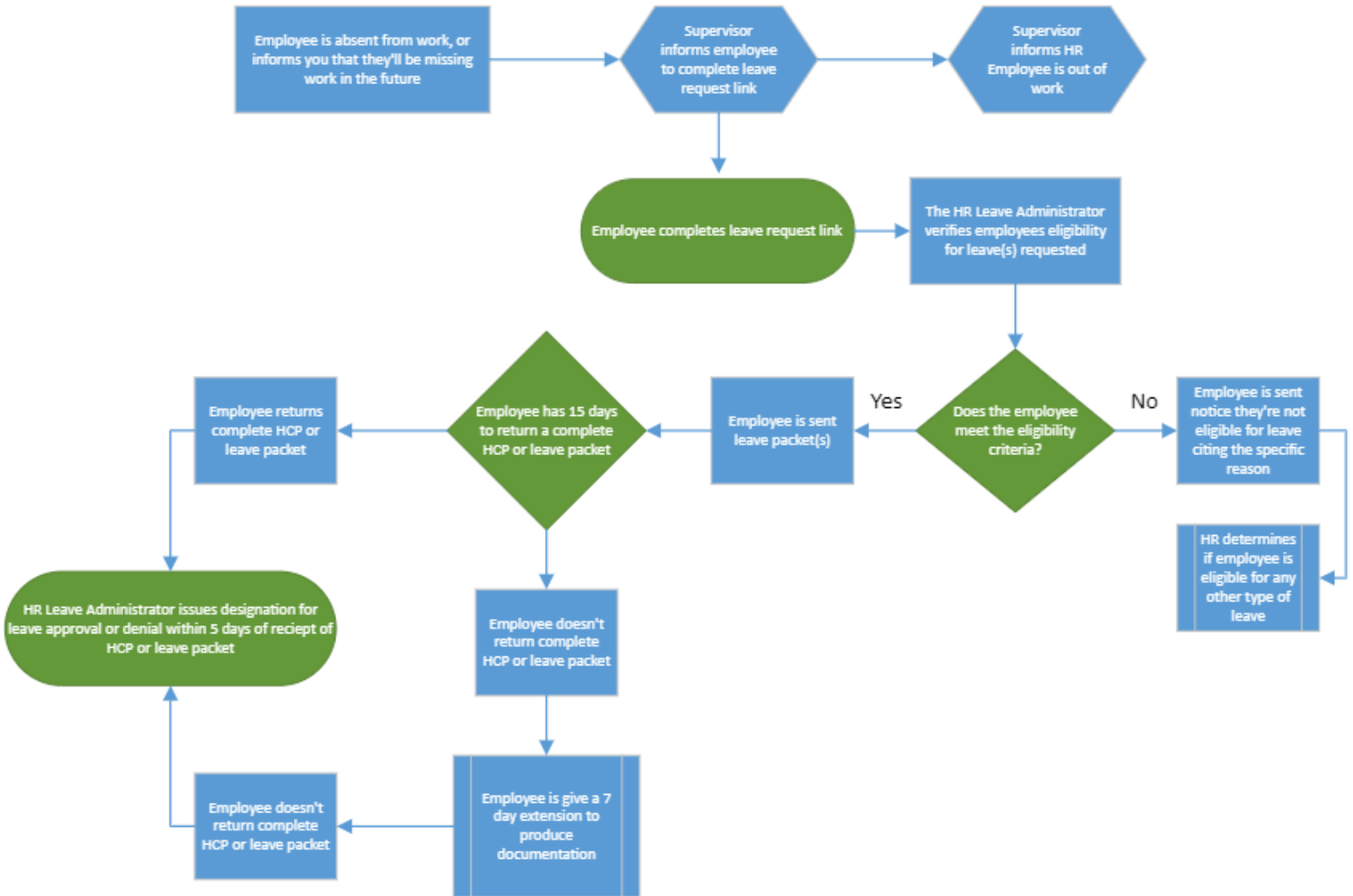
Supervisors/administrators should never assume that an employee or an employee’s family member doesn’t have a serious health condition. The physician’s Certification Form should be the sole determinant of whether or not a serious health condition exists. The employee should always be given a minimum of 15 calendar days to provide the necessary FMLA documentation. Additionally, subjecting the employee to adverse employment action (termination, disciplinary counseling, etc.) during the 15-day period is not advised.

d) Render v. FCA US LLC (2022)

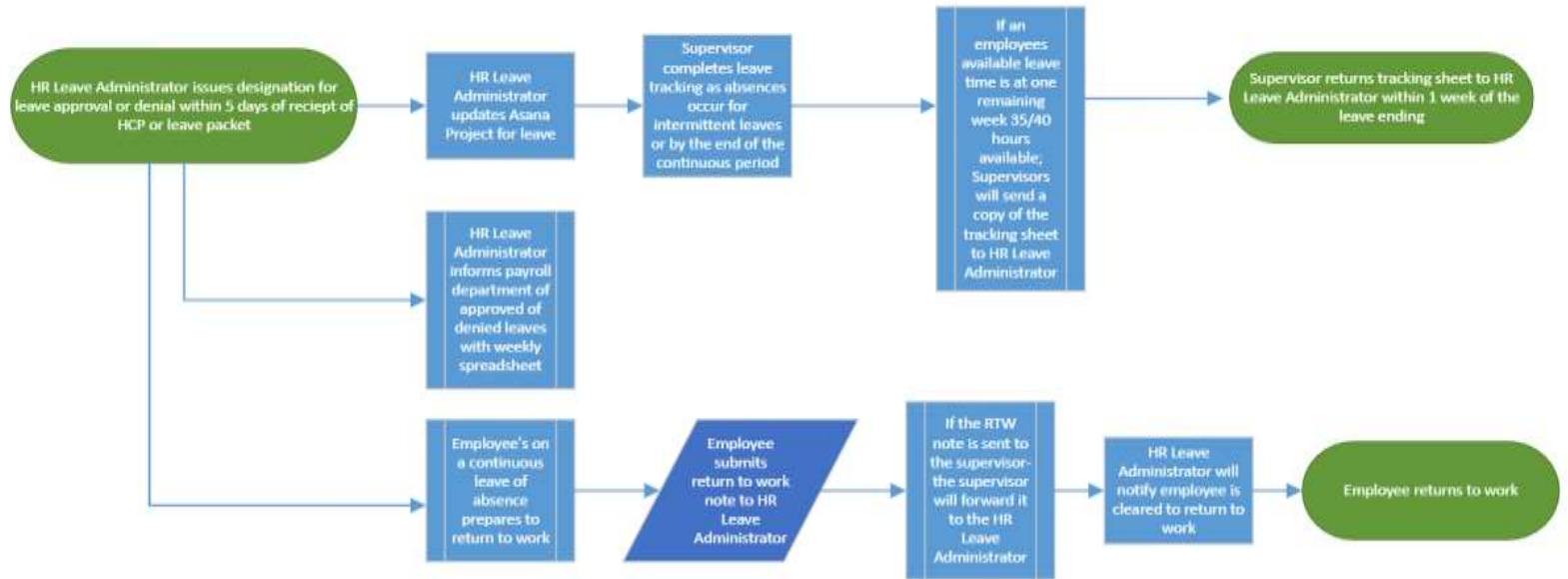
- Facts: In one of the most recent appellate FMLA opinions, *Render v. FCA US LLC*, the 6th U.S. Circuit Court of Appeals ruled in November 2022 that an employee did not need to provide formal notice every time he needed days off for his recurrent mental health condition, which already had been approved for FMLA leave.
The employee, Edward Render, notified FCA of his condition in October 2017 & applied for FMLA leave the following month. The company approved up to four days of leave per month for major recurrent depression and moderate/generalized anxiety disorder. Render called FCA to report that he would be absent three days in December 2017 & one day in January 2018 but did not specify that those absences were related to his FMLA leave. The employer considered those absences unexcused and terminated Render for a pattern of attendance problems.
- Court’s finding: In the lead opinion on the ruling, U.S. Circuit Judge Eric Clay said “notice need only be given one time” whether the leave was continuous or intermittent.
- Human Resources Comments: When an employee calls out of work (even to Telestaff) a supervisor should be following up with their staff to inquire if the employee needs to apply for a leave, or it relates to an existing leave for tracking purposes. Employees with intermittent leave don’t have to provide medical documentation for each absence.
- Lesson Learned from Case: A reminder for employers to be conscious of their communications and employee leave. The takeaway is for employers to have very clear call-in procedures, especially as more mental health related FMLA notices are filed.

XV. Leave of Absence Flow Chart

FMLA Certification Process



FMLA HR/Supervisory Processes



Attachment 1:

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fmlaen.pdf>

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take **up to 12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you.
- Your serious mental or physical health condition that makes you unable to work.
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less hours each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?

You are an **eligible employee** if **all** of the following apply:

- You work for a covered employer.
- You have worked for your employer at least 12 months.
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

Airline flight crew employees have different "hours of service" requirements.

You work for a **covered employer** if **any** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year.
- You work for an elementary or public or private secondary school, or
- You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

How do I request FMLA leave?

Generally, to request FMLA leave you **must**:

- Follow your employer's normal policies for requesting leave.
- Give notice at least 30 days before your need for FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

You **do not have to share a medical diagnosis** but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You **must also inform your employer if FMLA leave was previously taken** or approved for the same reason when requesting additional leave.

Your employer **may request certification** from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

What does my employer need to do?

If you are eligible for FMLA leave, your employer **must**:

- Allow you to take job-protected time off work for a qualifying reason.
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your employer **cannot interfere with your FMLA rights** or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your employer **must confirm whether you are eligible** or not eligible for FMLA leave. If your employer determines that you are eligible, your employer **must notify you in writing**:

- About your FMLA rights and responsibilities, and
- How much of your requested leave, if any, will be FMLA-protected leave.

Where can I find more information?

Call **1-866-487-9243** or visit dol.gov/fmla to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



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