

POLICY

Cancels:

See Also: POL-7041-HR

Approved by: BOCC

Res. #: 061709

POL – 7040 – HR IMPLEMENTING FAMILY MEDICAL LEAVE

This policy applies to all non-elected, regular employees, unless otherwise covered by a bargaining unit contract.

Definitions

FMLA – Family Medical Leave Act

Serious Health Condition – A physical or mental condition requiring medical care as defined in FMLA regulations.

FMLA Eligible Employee – Employees who have worked for Whitman County at least twelve (12) nonconsecutive months and 1,250 hours in the twelve (12) months immediately preceding the first date of leave.

Preliminary Leave – Tentative FMLA leave that has been granted pending a full eligibility investigation.

Healthcare Provider – A professional healthcare giver as defined by FMLA regulations.

Essential Functions – The fundamental job duties for a specific position as defined by the Americans with Disabilities Act.

Spouse – A legal husband or wife, as the case may be.

Child – A biological, adopted or foster child, a stepchild, legal ward or a child of a person standing in loco parentis who is: under eighteen years of age; or eighteen years of age or older and incapable of self-care because of a mental or physical disability.

Parent – A biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

Parent-in-Law – A parent of the legal spouse of an employee.

Grandparent – A parent of a parent of an employee.

1. Leave May be Required by the County or Requested by the Employee

Whitman County may require that an employee's leave be designated as FMLA. The employee may request FMLA status as well. Unless the absence is unforeseeable, a written request must be made 30 days before the first day of leave (**See PRO-7040-1-HR**).

If the request is foreseeable and does not make the 30 day deadline, the County may require the employee to wait 30 days before their first day of leave.

2. Human Resources Shall Determine Leave Eligibility and Parameters

Human Resources shall be responsible for determining, in writing, each employee's eligibility and parameters of FMLA leave in accordance with FMLA regulations (See **TSK-7040-1-HR**).

Eligible employees may take leave for the following reasons:

- the birth or placement for adoption or foster care of the employee's child;
- the employee is needed to care for a spouse, child, parent, parent-in-law or grandparent with a serious health condition; or
- the employee's own serious health condition makes the employee unable to do his/her job.

All employee leaves must be approved by the Department Head, Human Resources and/or the County Commissioners. Leave may be approved as long as it is not a detriment to the department and/or county in accordance with FMLA regulations.

3. Whitman County shall determine FMLA leave based on a rolling twelve (12) month period

FMLA leave will be based on a rolling twelve (12) month period and shall start on the employee's first day of leave. Prorated leave shall be used for employees who work part-time or on a condensed work schedule.

4. Employees May be Required to Provide Written Certification From Their Healthcare Provider

Except for the birth of a baby, all employees may be required to provide written medical certification from a healthcare provider stating the length of absence and need for leave. Employees may be required to update certification during the course of leave (See **PRO-7040-1-HR**).

Employees may be required to provide a second opinion, at the County's expense, from another physician designated by Whitman County. The physician shall not be employed by the County. A third opinion may be required if the first two are in conflict. The third opinion shall be binding.

5. Preliminary FMLA May be Assigned for Lengthy Investigations

In cases that require more than two (2) business days to determine eligibility, preliminary FMLA leave may be granted. Employees may begin leave on the date requested, but if Human Resources later determines it to be ineligible, the leave's coverage under the FMLA will be denied.

Human Resources shall notify the employee and Department Head in writing of the FMLA denial and make arrangements for his/her return to work.

6. FMLA Leave Shall Not be Retroactive

FMLA leave shall not be retroactive by the employee or Whitman County, except for the following reasons:

- the employee and Department Head do not notify Human Resources of the request for FMLA leave until the employee's return; or
- Human Resources declares the leave as preliminary until eligibility is determined.

7. Leave May be Taken Consecutively or Intermittently

Eligible employees may take days (or partial days) of leave consecutively or intermittently with the recommendation of their supervisor and/or Human Resources. All FMLA hours shall be tracked by each department (**See POL-0310-HR**).

8. FMLA Leave Shall be Required in Conjunction with Other Forms of Leave

Unless otherwise determined by law, FMLA leave may be run simultaneously to other forms of leave including, but not limited to, ADA leave and Worker's Compensation.

9. Sick and Annual Leave Accrual May be Maintained at the Rate Accrued Previous to FMLA Leave

Sick, annual and compensatory time may generally be used during leave instead of taking it as unpaid. Which type of time is taken shall depend on the reason for the leave and be in accordance with County policy.

As long as sick, annual or compensatory time are in use, they may continue to accrue during the employee's absence in the same manner they did before FMLA leave began.

10. Light Duty Positions May be Assigned on a Temporary Basis

Whitman County may transfer employees to light duty positions on a temporary basis and at the approval of the employer. The County cannot require that light duty replace leave time. The employee must be paid wages and benefits equivalent to his/her regular position.

11. Whitman County May Temporarily Refill the Employee's Position While Leave is in Effect