



# ADMINISTRATIVE REGULATION (AR)

Family and Medical Leave Act (FMLA) Leave of Absence  
(Revised from City AR-00048) FESSAM #7C.2

Effective: 01/01/2016

## I. SCOPE:

This Administrative Regulation applies to all Loveland Fire Rescue Authority (LFRA) employees who meet the eligibility requirements outlined in the Federal Family and Medical Leave Act of 1993 (FMLA). Employees are eligible for FMLA if they have worked for LFRA for at least 12 months and at least 1,250 hours over the previous 12 months. The 12 months of employment do not need to be continuous.

## II. PURPOSE:

The Administrative Regulation ensures that all LFRA employees are complying with the Federal Family and Medical Leave Act of 1993 (FMLA) and the National Defense Authorization Act of 2008 (NDAA) and all subsequent revisions or amendments to the regulations issued by the Department of Labor.

## III. DEFINITIONS:

- **Serious Health Condition** refers to 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 a 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 in-person visits to a health care provider or one in person visit and continuing treatment under the supervision of a health care provider, or incapacity due to pregnancy, or incapacity due to a chronic condition. The first (or only) in person treatment visit must take place within seven (7) days of the first day of incapacity. Other conditions may meet the definition of continuing treatment.
- **Genetic Information** refers to an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

## IV. POLICY:

LFRA provides up to 12 weeks of unpaid, job-protected leave to eligible employees in a 12-month period. LFRA's 12-month period is on a rolling calendar year beginning on the first day of the employee's first FMLA leave. FMLA leave may be utilized for the following reasons:

- An employee's inability to perform his/her job due to a serious health condition (including work-related injuries);
- For incapacity due to pregnancy, prenatal medical care, or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care within one (1) year of birth or placement;



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- To care for the employee's spouse, child (under the age of 18 or older if disabled), or parent, who has a serious health condition.

Employees receiving workers' compensation or short term disability benefits will automatically be placed on an FMLA leave if the injury/illness is determined to be a serious health condition and the employee meets the eligibility requirements.

## Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the Armed Forces, National Guard, or Reserves may use their 12 week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligible employees may also take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, National Guard, or Reserves, who has a serious injury or illness incurred or aggravated in the line of duty on active duty. Covered service members also includes veterans who were members of the Armed Forces, National Guard, or Reserves at any time during the period of five years preceding the start of treatment, recuperation, or therapy.

The injury or illness must make the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. In the case of a veteran, the qualifying illness or injury must be incurred or aggravated in the line of duty and manifests itself before or after the service member became a veteran.

## Benefits and Protections

During FMLA leave, LFRA maintains employee health coverage under any group health plan on the same terms as if the employee had continued to work. Employees must continue to pay their portion of any insurance premium while on leave.

Upon return from FMLA leave, most employees are restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Certain highly compensated employees (key employees) may have limited reinstatement rights.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of a leave. Employees will continue to accrue paid leave hours while on FMLA. Designated holidays will not be paid while on an *UNPAID* FMLA leave.

LFRA will not interfere with, restrain or deny the exercise of any right provided under FMLA nor will it discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in a proceeding under or relating to FMLA.

## Amount and Use of Leave



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The maximum time allowed for FMLA leave is either 12 weeks in a 12-month period or 26 weeks for military leave. LFRA's 12-month period is on a rolling calendar and begins on the first day of the employee's first FMLA leave. Leave can be taken consecutively, intermittently or on a reduced schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt LFRA operations. Leave due to qualifying military exigencies may also be taken on an intermittent basis.

Employees taking intermittent leave or on a reduced schedule may be required to temporarily transfer to another job with equivalent pay and benefits that better accommodates that type of leave.

LFRA requires employees to use accrued paid leave at the beginning of the FMLA leave with the exception of 40 hours (if requested by the employee). In order to use paid leave during FMLA leave, employees must comply with LFRA's paid leave policies. Paid departmental administrative leave may not be used during an FMLA leave. If an employee fails to follow LFRA's policies, the employee may be denied the use of paid accruals and/or be subject to discipline.

## **Basis For Mandate:**

- Federal Family and Medical Leave Act of 1993 (FMLA) and all subsequent revisions
- National Defense Authorization Act of 2008 (NDAA) and all subsequent amendments

## **V. PROCEDURE:**

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and must comply with LFRA's normal call-in procedures. To apply for FMLA, employees or their representatives must complete the *Request for Leave of Absence* form available through Human Resources.

Employees must provide sufficient information for LFRA to determine if the leave may qualify for FMLA protection and to identify the anticipated timing and duration of the leave. Information may include that the employee is unable to perform job functions; a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.

Employees also may be required to provide a certification and periodic recertification supporting the need for leave. LFRA may require second and third medical opinions at LFRA's expense. Documentation confirming family relationship, adoption, or foster care may be required. If notification and appropriate certification are not provided in a timely manner, approval for leave may be denied. Continued absence after denial of leave may result in disciplinary action.



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The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, employees should not provide any genetic information when responding to a request for medical information.

## Insurance Coverage

LFRA continues its portion of medical, dental, life and disability insurance coverage for employees on paid or unpaid FMLA leave as it does with other employees not on leave. An employee must continue to pay his/her portion of any insurance premiums while on leave.

If the employee is able but does not return to work after the expiration of the leave, the employee may be required to reimburse the organization for payment of insurance premiums paid as benefits by LFRA during any unpaid leave.

## Returning from Leave

Employees must contact Human Resources at least 48 hours before their first day of return. Employees are also required to return to work on the expected return date or employment may be terminated.

Employees returning from FMLA leave for a serious health condition must bring an *LFRA Return to Work* form from their physician in all cases except for a normal delivery of a child. LFRA may also require additional fitness for duty certifications.

## LFRA's Responsibilities

LFRA will inform employees requesting leave whether they are eligible under FMLA. If eligible, the notice will specify any additional information required as well as the employee's rights and responsibilities. If ineligible, LFRA will provide a reason for the ineligibility.

LFRA will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the leave entitlement. If LFRA determines that the leave is not FMLA-protected, LFRA will notify the employee.

## VI. OTHER RELATED REGULATIONS & PROCEDURES:

ADA Employment	Effective: 1/1/2016
Medical Leave	Effective: 1/1/2016
Workers' Compensation	Effective: 1/1/2016

## VII. LFRA FIRE CHIEF SIGNATURE:

Mark Miller, Fire Chief