

PERSONNEL POLICY MANUAL

LETA		POLICY No. 13
Section:		EFFECTIVE: 10/01
Subject:	FAMILY & MEDICAL LEAVE	REVIEW
Source:	Executive Director	REVISION #1
		REVISED- 1/25/2011

PURPOSE

To establish the commitment of the Louisiana Educational Television Authority (LETA) to comply with the mandated federal Family and Medical Leave Act of 1993.

POLICY

The Family and Medical Leave Act (FMLA), enacted into law on February 5, 1993, entitles qualified employees up to twelve weeks of leave in any year beginning with the employee's first use of FMLA Leave for the birth or adoption of a child, to care for a spouse or an immediate family member with a serious health condition, or when the employee is unable to work because of a serious health condition. Employees should note that FMLA is not a separate "pot" of leave that is granted in addition to annual and sick leave, but employees are entitled to use their own sick and/or annual leave (as appropriate) for FMLA purposes. For leave requested for any of the other reasons listed below, an employee may use all of his/her accrued annual leave. The remainder of the leave period will then consist of Leave Without Pay (LWOP). The appropriate leave slips for the type of leave to be taken shall be completed and properly signed prior to the employee taking FMLA Leave, unless due to an emergency, at which time leave slips will be prepared and given to the employee for signature. The type of leave that is granted must be determined prior to the beginning of the leave.

ELIGIBLE

Employees who have been employed for at least one(1) year, and who have worked at least 1,250 in the preceding 12-month period, are eligible for Family and Medical Leave. NOTE: The term "hours worked" does not include time spent on paid or unpaid leave.

Employees not eligible for Family and Medical Leave should consult their supervisor and the Human Resource Office for review of their current leave status and the individual circumstances involved.

ELIGIBLE QUALIFICATIONS/LIMITATIONS

1. For the birth and/or to care for the child,
2. For the placement with the employee of a child for adoption or foster care;
3. For the care of the employee's spouse, son, daughter, or parent with a serious health condition,
4. For the employee's own serious health condition that prevents the employee from performing the duties of their job.

FMLA Leave may be taken continuously or intermittently or on a "reduced leave schedule" under certain circumstances. Where leave is taken because of a birth or placement of a child for adoption or foster care, the employee may take leave intermittently or on a reduced leave schedule only if the supervisor/department head

agrees. Where FMLA Leave is taken to care for a sick family member or for the employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary. "Intermittent leave" is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointment, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

A "reduced leave schedule" is leave that reduces the employee's usual number of working hours per workweek, or hours per workday. In other words, a reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time. Such a schedule reduction might occur when the employee, with the supervisor's approval, works part-time after the birth of a child, or because the employee is recovering from a serious health condition and is not strong enough to work a full-time schedule.

DEFINITION OF "ANY YEAR"

For the purpose of this law and LETA policy, a year is defined as the twelve-month period beginning with the date the employee first uses FMLA designated leave. This shall be referred to as a "first use year".

NOTICE REQUIREMENT

Employees are required to provide thirty (30) days advance notice, unless the qualifying event is unforeseeable or a medical emergency. When advance notice is impossible or impractical, employees are required to notify their supervisors or other appropriate departmental authority at the earliest possible time. The employee is required to provide the appropriate certification within fifteen (15) calendar days to employee's supervisor. (Form WH-380)

Such emergency requests will be revoked should the certification not support the reasons for FMLA Leave as originally provided by the employee. Should the request be revoked, the employee may be required to repay the leave and/or health coverage premiums, if applicable, and the employee may be subject to disciplinary action.

When the employer makes a determination that the absence is FMLA eligible, the employer must at least provide verbal notification to the employee that the absence will be deducted from the employee's FMLA balance. It must be followed in writing with Form WH-381 to the employee. It is not necessary to have the health care provider certification to begin counting leave as FMLA.

MEDICAL CERTIFICATION

Is required to support FMLA leave for serious health conditions of an employee or for the employee's family member. (Form WH-380) If LETA has "reason to doubt" the medical certification from the employee, LETA may obtain a second opinion, at the expense of LETA, from a health care provider, approved jointly the employer and the employee.

This opinion is binding on both. Note: Medical records are protected by federal law and are not maintained in the employee's personnel file.

MEDICAL HEALTH COVERAGE

Employees who have their health coverage with the state and who go on unpaid FMLA leave and who wish to continue their health care coverage will have the employer portion of the premium paid by LETA. The employee is responsible for paying the employee's portion of the insurance premium. When an employee is on unpaid FMLA leave, and the employee's portion of the medical premium is more than thirty (30) days past due, all obligations of LETA to the employee's medical coverage cease. Under these circumstances, LETA has the right to recoup any payments made by LETA for the employee.

PAID/UNPAID LEAVE

When an employee is on FMLA leave, he/she must use all eligible accrued leave prior to taking unpaid FMLA leave. This includes annual and sick leave. Compensatory leave earned only on an hour-for-hour basis may be used for FMLA. An employee may use 1.5 Compensatory Leave; however, it will not count against FMLA leave. Note: Sick leave may be used only when on FMLA Leave due to the employee's "serious health condition." Compensatory leave must be taken prior to annual leave.

REQUIREMENT TO DOCUMENT ALL FMLA LEAVE

Whether or not the employee requests FMLA leave specifically, if it is determined the reason for leave qualifies as FMLA, it must be approved and documented as FMLA leave and must be marked as such on the leave slip. The employee must complete the "Application for Leave" form, check FMLA indicating if the leave is for "Self" or for "Family". If paid FMLA is being taken, also indicate "annual" or "sick leave. Federal Regulations indicate that it is always the employer's responsibility to determine when an employee's absence is for a FMLA eligible reason.

RESTORATION AFTER LEAVE

Upon return from FMLA leave, most employees will be reinstated to their original or an equivalent job. Restoration may be denied under certain circumstances, including:

- If it can be shown that the employee would not otherwise have been employed at the time reinstatement is requested; or
- The employee fails to provide a fitness for duty certificate to return to work, if required; or
- The employee is unable to perform the functions of the position because of a physical or mental condition, including the continuation of a serious health condition.