

Kentucky Equal Justice Center Family Medical Leave Draft Policy

All Employees will be eligible for the following family medical leave regardless of length of time employed:

- 12 weeks paid (with benefits) job-protected leave for:
 - incapacity due to pregnancy, prenatal medical care, or childbirth;
 - to care for the Employee's child after birth or placement for adoption or foster care;
 - to care for the Employee's spouse, son, daughter or parent, who has a serious health condition¹; or
 - for a serious health condition that makes Employee unable to perform the Employee's job.
- Employee may extend paid leave by 3 additional months (for a total of 6 months) using sick, vacation, personal days, compensatory time, or taking unpaid leave.
- Qualifying exigency leave for military family members:
 - Leave for qualifying exigencies that arise when Employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.
 - Covered active duty means:
 - for members of the Regular Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or
 - or members of the Reserve components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.
 - Deployment to a foreign country includes deployment to international waters.

¹ "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves: any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or a period of incapacity requiring absence of more than **three calendar days** from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or any period of incapacity due to pregnancy, or for prenatal care; or any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or, any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.). In determining what constitutes a "serious health condition," Employer or Director may seek guidance in cases interpreting the Family Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.*

- Qualifying exigencies for which an employee may take leave under the Family Medical Leave Act: making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member's absence.
- Employee may not exhaust leave under this policy more than once in an 18 month period from the last day of leave used under this policy.
- Partial leave will be calculated by normal work-week hours:
 - Full-time employees have 480 hours of paid, with benefits, job-protected leave.
 - Part-time employees have 240 hours of paid, job-protected leave.

Rights and responsibilities of Employees:

- Leave can be taken intermittently or on a reduced leave schedule. Intermittent leave may be taken using sick, compensatory, annual or other accrued leave without implicating this policy, as needed.
- Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt Employer's operations.
- Employees should notify Employer at least 30 days prior to planned leave when possible.
- Employees must provide sufficient information for Employer to determine if the leave qualifies for family leave protection and the anticipated timing and duration of the leave, including providing documentation if requested.
- Employee must let Employer know they want to take leave under this policy and how much leave they want to exhaust under this policy.
- Absent exigent circumstances, Employee will arrange with the Director and their supervisor: how their work will be covered while on leave; will notify clients by phone, email and/or postal mail whom to contact while Employee is on leave; and will leave detailed notes in the paper and electronically maintained files regarding any ongoing cases.
- If circumstances permit, Employee will meet with supervisor to go over ongoing cases before taking leave.
- If circumstances permit, Employee will make efforts to reduce the volume of work that will accrue while Employee is on leave
- If Employee wishes to extend their leave beyond 12 weeks, Employer may request that Employee be available to check in weekly by phone or email on ongoing cases.
- Family Medical Leave is never payable upon termination or resignation of the Employee.

Rights and responsibilities of Employer:

- If an Employee is not eligible, Employer must provide a reason for the ineligibility, which must be reviewed by the Board of Directors if requested by Employee.
- Employer will maintain paid benefits for Employee, and leave cannot result in the loss of any employment benefit, including seniority, that accrued prior to the start of Employee's leave.
- This policy does not plan for every contingency, and it is possible that funding timelines may impact the ability of Employee to exhaust all their Family Medical Leave. Ultimate

discretion is with the Director in exceptional circumstances. Employee may appeal to Board of Directors.²

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² In determining what constitutes eligibility or to avoid any potential abuse of this policy, Employer or Director may seek guidance in cases interpreting the Family Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.*