



# SICK LEAVE

FC No.: 311

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**I. Purpose**

This directive provides guidelines for department employees requesting sick leave. *This directive merely attempts to clarify the FOP and MCGEO contracts. For any questions that arise, the contracts will supersede the directive.* (CALEA 22.2.1.c, 22.2.4)

**II. General Procedures**

**A. Notification Requirements**

Any employee of the department, unable to report for work because of illness, shall:

- 1. Notify their respective supervisor or an alternate person designated by the district/unit commander.
- 2. Advise a phone number where the employee can be reached during the time the sick leave is in effect.

NOTE: The requirement to leave a phone number is based on a 1984 Conciliation Agreement with the FOP. It is a general requirement which does not prevent the employee from leaving the residence for a doctor's appointment, to purchase items in a store, or to attend to other personal needs.

- 3. Except in emergencies, notification of illness shall be accomplished not less than one hour prior to the time the employee is scheduled to report for duty, assignment, or detail.

**B.** All sick leave use shall be documented on *the MCP 304, "Leave Request."* The responsibility for approving or disapproving sick leave rests with the employee's supervisor.

**C. Physician's Certificate (Mandatory)**

An employee using more than five consecutive days of sick leave shall submit to the employee's supervisor a certificate from a physician or other recognized

medical practitioner. The certificate shall confirm the illness and the employee's inability to report to work or to perform part or all of the duties and responsibilities of the employee's position and the dates of treatment.

**D. Physician's Certificate (Conditional)**

1. *Whenever an employee uses excessive or questionable sick leave and abuse is reasonably suspected, a supervisor may request written certification of illness from the employee who has used sick leave for 40 consecutive work hours or less. The supervisor will advise the employee in writing of the reasons for the certification requirement. For MCGEO bargaining unit members, employees must be given prior notice as to the requirement to provide certification for future absences.*

2. Failure by the employee to submit the documentation means the employee has failed to meet the condition established and results in disapproval of the *leave* request. In such instances, the employee then is considered absent without official leave and paid leave is denied. The time in question is recorded on payroll sheets as "leave without pay (AWOL)" which places the employee in a non-pay status. This policy does not apply to FLSA exempt employees.

**E.** In those cases where an employee uses excessive or questionable amounts of sick leave, the Chief of Police may require written certification of the illness and/or have the employee take a medical examination. Where abuses of sick leave are revealed, the Chief may also take disciplinary action. (CALEA 26.1.5)

**F. Fitness-for-Duty Examinations**

*Managers and supervisors requesting medical evaluations should describe the behavior(s) or condition of the employee that is prompting the request. Supervisors and managers should not request a specific form of examination (e.g., orthopedic, psychological, etc.). The County Medical Examiner (CME) decides the specific type of examination that the employee should undergo. Therefore, it is important that descriptions of behavior or condition be sufficiently detailed to explain to the CME the overall concerns so that the CME may appropriately recommend a specific type of medical examination the employee should undergo.* (CALEA 22.3.1)

**G. "Return to Work" Authorization**

1. *Before an employee returns to work after an absence which is the result of a workers' compensation injury or after having been out 15 or more work days, the employee must have a "Return to Work" authorization form completed by the employee's private physician or workers' compensation physician authorizing the employee's return to work.*
2. *The form must be presented to the employee's supervisor immediately upon returning to work.*
3. *If fitness for duty issues arise upon the employee's return to work, the employee may be required to see the CME who may make further determination as to fitness for duty.*
4. *After receiving the "Return to Work" authorization form, the employee's supervisor will forward this form to Occupational Medical Services (OMS) for inclusion in the employee's medical file.*
5. *Notwithstanding the above requirements, an employee may be required to submit to a medical examination by the CME to determine fitness for duty.*

H. An employee who has prior knowledge of sick leave use for an operation, special medical, dental, or optical treatment, etc., shall inform the employee's supervisor in advance so that work schedules can be adjusted.

I. Temporary No-Duty Status

Officers on sick leave are in a temporary no-duty status (as defined in FC 380, "Disability Policy," and **FOP Collective Bargaining Agreement, Art. 11.E.5.a**). Officers in this status are not permitted to wear the police uniform or operate a police vehicle. A return to another status must be certified by the OMS if the sickness exceeds 15 days (3 days for an on-the-job injury).

### III. Family and Medical Leave Act (FMLA)

A. Definitions

1. Family and Medical Leave - Paid or unpaid leave granted to eligible employees.
2. Eligible Employee - An employee who has been employed by the county for a total of 12 months and who has been in a work status for at least 1040 hours in the preceding 12 months. An eligible employee must be allowed to use 12 workweeks per leave (calendar) year or any combination of annual leave, sick leave, disability leave, parental leave, and leave without pay for any one or more of the following reasons:
  - a. To care for the employee's newborn **child** or newly adopted child or to care for a foster child newly placed with the employee.
  - b. To obtain prenatal care for the employee or to arrange for the adoption or foster care placement of a child with the employee.

- c. To care for, or arrange care for, any of the following with a serious health condition:
  - The employee's spouse,
  - The employee's minor child,
  - The employee's adult child incapable of self-care, or
  - The employee's parent.
- d. ***Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.***

B. Use of FMLA Leave

1. Leave taken to care for the employee's newborn child or child newly placed for adoption or foster care:
  - a. Shall be taken within 12 months of the birth, adoption, or foster care placement of the child.
  - b. May be used on a continuing basis or, with the approval of the employee's supervisor, may be used on an intermittent or reduced workweek basis.
  - c. At the employee's option, may be paid leave of the appropriate type, or unpaid leave, or any combination of the two.
  - d. Shall be unpaid leave if the employee has exhausted all appropriate paid leave.
  - e. Is subject to a 30-day advance notice period.
  - f. Will not qualify as parental leave if the leave is taken to care for a newly placed foster child or if the employee has exhausted the 720 hours of parental leave per 24-month period.
2. FMLA leave taken for medical purposes to care for, or arrange care for, a serious health condition of the employee's spouse, minor child, adult child incapable of self care, or parent or because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position:
  - a. At the employee's option, may be paid leave of the appropriate type or unpaid leave, or any combination of the two.
  - b. Must be unpaid leave if the employee has exhausted all appropriate leave.
  - c. May be used on a continuing, intermittent, or reduced workweek basis, as needed.
  - d. A supervisor may require an employee to submit medical certification from a health care provider to support a request for FMLA leave for the employee's serious health condition that makes the employee unable to perform the functions of the employee's position, or for the serious health condition of the employee's family member. (CALEA 22.3.1, 22.3.2) A request for medical certification must be made in writing and must advise the employee of the anticipated

consequences of failing to provide the certification. As provided by the FMLA, medical certification for FMLA leave may be required for any of the following reasons:

- The FMLA leave exceeds five consecutive workdays.
  - The employee requests to use any amount of annual leave as FMLA leave and the requested leave would not normally be approved under the standards generally applied to requests for annual leave.
  - The supervisor has a reasonable basis to suspect the employee of FMLA leave misuse or abuse.
  - **Article 19, Section G, or any other provision, of the FOP Collective Bargaining Agreement requires the employee to submit medical certification under the circumstances.**
- e. A supervisor may require medical recertification of a serious health condition of the employee or the employee's family member. Such recertification may be requested verbally, at reasonable intervals, but not more often than every 30 days, unless:
- The employee requests an extension of leave.
  - Circumstances described by the original certification have changed significantly.
  - The supervisor receives reliable information that leads to a reasonable doubt upon the continuing validity of the original certification.
  - The employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of a serious health condition.
  - **An employee on disability leave that is designated as FMLA cannot be required to take a restricted duty work assignment until the employee has exhausted all FMLA leave.**
- f. If medical certification or recertification is required, it must be submitted by the employee within 15 calendar days after it is requested by the supervisor.
- g. If the supervisor has reason to doubt the medical opinion as documented by the completed medical certification for the serious health condition of the employee or the employee's family member, the supervisor may, after providing reason(s) for such doubt to the employee, require the employee to obtain, at the county's expense, a medical opinion from a second health care provider designated by the OMS. If the two opinions differ, the employer may require a

medical opinion from a third health care provider at the expense of the county. The employee and the OMS must jointly agree on the third health care provider, whose opinion is final and binding.

- h. FMLA leave taken for a serious health condition may be taken on an intermittent or reduced work schedule if the medical need can best be accommodated through such a schedule. An employee must attempt to schedule intermittent leave so as not to unduly disrupt the work.
  - i. FMLA leave cannot be taken to care for the employee's adult child capable of self-care who has a disability from which complete recovery is expected.
  - j. When returning from 15 or more days of FMLA leave for the employee's serious health condition other than childbirth, the employee may be referred to OMS for clearance to return to work.
3. An employee may be temporarily transferred to another position in the department, provided there is no reduction in grade, with equivalent pay and benefits to accommodate an intermittent leave schedule or reduced workweek.
4. **Employees must apply for paid FMLA leave in accordance with applicable procedures for the granting of annual leave, sick leave, and parental leave and provide as much advance notice as possible to the supervisor so as not to unduly disrupt the work unit. When unforeseen events occur, notice of the need to use FMLA leave shall be given as soon as practicable, ordinarily within one or two working days.**
5. Eligible employees must provide advance written notice of intent to use leave without pay for FMLA purposes when the need to use the leave is foreseeable. Employees must otherwise provide such notice as is practicable.
6. Either the employee or supervisor may designate leave as FMLA leave. The supervisor should designate leave as FMLA leave if the information available to the supervisor from the employee indicates that the leave is being taken for an FMLA purpose, and the employee has not requested or otherwise indicated that the leave is FMLA leave. The supervisor must advise the employee prior to the completion of the period of leave that it has been designated as FMLA leave and the reasons for the designation.

C. Limitations on FMLA Sick Leave Usage

FMLA sick leave may only be used for the following FMLA purposes:

1. To care for the employee's newborn or newly adopted child, provided the leave qualifies as parental leave (see section IV).

2. To care for the employee's newborn or newly adopted child, if the leave does not qualify as parental leave, subject to the limitations on family sick leave.
3. To obtain prenatal care for the employee.
4. To care for, or arrange care for, any family member as permitted.
5. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.

D. Recording of Family and Medical Leave

Leave used for FMLA purposes will be recorded on the timesheet once as "FMA" and also as annual leave, sick leave, disability leave, or leave without pay, as applicable.

IV. **Parental Leave**

- A. Employees shall be allowed to use up to 720 hours of any combination of sick, annual, or compensatory leave and leave without pay during any 24-month period to care for:
1. A newborn child of the employee, or
  2. A newly adopted child of the employee.
- B. Use of Parental Leave  
All leave taken under this section:
1. Must be used within 12 months after the birth of the child or placement with the employee for adoption. ***If the member does not use the entire amount of parental leave within the 12 month period following the birth or placement of the child, the balance will remain available and may be used for a subsequent birth or placement, provided that parental leave for any birth or adoption does not exceed 720 hours.***
  2. At the election of the employee, may be used on a continuing basis.
  3. With the approval of the supervisor, may be used:
    - a. Under a method involving a reduced workday or workweek.
    - b. On an intermittent basis.
    - c. Any combination thereof.
  4. May be in addition to any other leave taken.
  5. Is subject to a 30-day advance notice requirement.
- C. Limitations on Leave Usage
1. Any use of leave for either medical reasons or for the purpose of attending to the immediate family at the time of birth or adoption of a child must be deducted from the 720 hours.
  2. Sick leave donations may not be used to cover leave without pay.
- D. The use of parental leave for an FMLA purpose will be considered to be FMLA leave and count towards the FMLA entitlement of 12 weeks of leave in a leave

year. However, compensatory time used as parental leave cannot be counted as FMLA leave.

- E. An employee who has exhausted the parental leave (720 hours in a 24-month period) may still be entitled to use up to 12 weeks of FMLA leave in a leave year if the employee has not exhausted the entitled FMLA in the calendar year.

- F. It is the responsibility of supervisors to track employees' use of parental leave.

V. **Maternity Cases**

A. Female Employees

A female employee, upon learning she is pregnant, will immediately forward a memorandum to her commanding officer providing the date she was informed of her pregnancy, the name and address of the attending physician, and the approximate delivery date of the child.

B. Female Officers

The status of a pregnant female officer will be decided on a case-by-case basis after consultation with her physician and agreement by OMS. Once a female officer becomes aware of her pregnancy, she will:

1. Notify the department that she is pregnant and indicate if she prefers to go on restricted duty or remain in a full duty status.
2. If she elects to be placed in a restricted duty status, she will be assigned to an available position within the department as outlined in FC 380 ***or the appropriate collective bargaining agreement.*** Her assignment, and any limitations, will be predicated on the guidance provided by her physician and OMS.
3. If she prefers to remain in a full duty status, she must submit a letter from her physician to the Chief of Police indicating she is fully able to perform her duties as a sworn police officer without harm to herself or the fetus. If a review of the medical recommendations indicate it would not be unsafe for the officer or fetus, the officer will be permitted to remain in a full duty status. She then may remain on full duty until:
  - a. Her physician determines it is unsafe for the officer to remain in full duty status, with concurrence by OMS.
  - b. Her physician determines that it would be unsafe for the fetus if the officer remains in full duty status, with concurrence by OMS.
  - c. The officer requests restricted duty status.

- C. A pregnant female employee may continue to work (subject to the disability policy restrictions) whenever the pregnancy does not adversely impair the

employee's work performance and such continuation at work does not conflict with the attending physician's advice.

**D.** *The employee must provide the employer at least 30 days advance notice before FMLA is to begin if the need for the leave is foreseeable based on an expected birth.* For other periods of the pregnancy, an employee who is not able to report to work because of pregnancy or childbirth complications *may also use FMLA leave and shall be eligible to use accrued sick leave.*

**E.** Male Employees  
In cases when the mother is recovering from childbirth, the *father is entitled to FMLA leave or he* can request parental leave. The amount used is limited *as specified previously in sections III and IV.*

**VI. Family Sick Leave**

The Personnel Regulations, FOP, and MCGEO provide for the use of sick leave for an illness, injury, medical quarantine, medical, dental, or optical examinations, and treatments in the immediate family or for the purpose of attending to the immediate family at the time of birth or adoption of a child, provided the time used is not for a period more than the amount of sick leave earned in any calendar year.

**VII. Sick Leave Bank Programs**

**A.** Non-Sworn Employees (Grade 25 and Up) and Sworn Employees (*Lieutenant* and Above)  
A sick leave bank program has been established by the county and is set forth in Administrative Procedure 4-17, "Sick Leave Donor Program."

**B.** Sworn Employees (POI – *Sergeant*)  
1. The sick leave bank program has been established by the collective bargaining agreement.  
2. *Unit members married to other unit members shall be allowed to donate sick leave to their spouse for Parental Leave and FMLA purposes. Unit members are required to obtain approval of leave consistent with current practice.*

**C.** Non-Sworn Employees (Members of MCGEO)  
A sick leave bank program has been established by the collective bargaining agreement.

**VIII. Proponent Unit: *Legal and Labor Relations Division***

**IX. Cancellation**

*This directive cancels Function Code 311, effective date 01-06-98.*



Charles A. Moose, Ph.D.  
Chief of Police

APPENDIX A

Family Sick Leave Chart

	Family Sick Leave	Parental Leave	Family and Medical Leave Act
Hours Available	120 hours per calendar year	720 hours per 24 month period	480 hours per calendar year
Types of Leave That can be Used	Sick Leave	Sick, Annual, Compensatory, and Leave Without Pay	Sick, Annual, Leave Without Pay, and Disability Leave (for an approved disability)
Reasons to Use	An employee may use family sick leave for an illness, injury, medical quarantine, medical, dental or optical examinations and treatments in the immediate family or for the purpose of attending to the immediate family at the time of birth or adoption of a child	An employee may use parental leave to care for a newborn child of the employee or a newly adopted child of the employee. All leave taken under parental leave must be used within 12 months after the birth of the child or placement with the employee for adoption.	An employee may take leave under the FMLA to care for a newborn or newly adopted child, for prenatal care, to care for a family member with a serious health condition, or to take time off when the employee is unable to work due to a serious health condition
Who Tracks the Leave	Payroll Section	The employee's supervisor	Payroll NOTE: FMA is a <u>tracking</u> code only, not a pay code.
Additional Information		The first 480 hours of parental leave in each year are subtracted from FMLA leave (except when compensatory leave was used).	If all allotted parental leave has been used, the employee may still use any remaining FMLA leave allowed for that year.