



Regional Transit Authority

Family Medical Leave

(HC26)

POLICY STATEMENT

The New Orleans Regional Transit Authority (RTA) will provide Family and Medical Leave Act (FMLA) leave to its eligible employees. The agency posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act in Louisiana.

PURPOSE

The function of this policy is to provide employees with a general description of their FMLA rights.

APPLICATION

This policy applies to all RTA employees. If a conflict occurs between this policy and a Collective Bargaining Agreement (CBA), the CBA will prevail.

APPROVED:

ADOPTED: Board Chair

Chief Executive Officer

Effective Date: _____

Date of Last Review: _____



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FAMILY AND MEDICAL LEAVES OF ABSENCE

PART A. Employees Who Qualify for a Leave under the Family and Medical Leave Act (FMLA) of 1993.

The RTA will grant a leave of absence to regular full-time and regular part-time employees, who have completed at least one full year of service with RTA and have worked a minimum of 1,250 hours in the twelve months preceding the requested leave, for the following reasons:

- Twelve workweeks of leave in a 12- month period for:
- The birth of a child and to care for the newborn child within one year of birth; the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement; to care for the employee's spouse, child, or parent who has a serious health condition; a serious health condition that makes the employee unable to perform the essential functions of his or her job; any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

RTA will provide up to twelve weeks of unpaid, job-protected leave to "eligible" employees. Employees must use the twelve weeks within a twelve-month period, and the leave can be used intermittently. Employees will be required to provide documentation for leave approval. Documentation required may include physician statements, custody documents, etc.

Employees can utilize available sick, vacation, and/or personal leave while out on FMLA. An employee can also take FMLA without using their available leave.

All RTA benefits based upon hours worked (e.g. vacation, sick, and personal days) will cease to accrue during any period of unpaid FMLA leave. If employees are using vacation and sick leave in conjunction with FMLA, they will continue to earn leave during their absence. Employees will accrue seniority during the period.

Employees will be required to use all unused vacation and personal days during the leave period. Once such benefits are exhausted, the balance of the leave will be without pay.



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All group health benefits will continue during the leave period provided the employee continues to make regular employee contributions to the plan. If an employee fails to repay the health premiums that RTA paid on his or her behalf, the employee shall be referred to the Louisiana Attorney General for further collection activity.

You will be required to use all unused sick, vacation, and personal days during your leave period. Once such benefits are exhausted, the balance of the leave will be without pay.

All group health benefits will continue during the leave provided the employee continues to make regular employee contributions to the plan. For example, if the employee normally pays 40% of his health insurance premium, his health insurance will continue, provided he pays this amount to RTA. Other benefits, such as pension and life insurance, will be governed by the terms of those plans.

Reinstatement Rights

Eligible employees are entitled on return from leave to be reinstated to their former position or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Exceptions to this provision may apply if business circumstances have changed (e.g., if the employee's position is no longer available due to job elimination). Exceptions may also apply for "key" employees who are highly compensated.

In addition, employees who have requested and been granted an extension of their leave after commencement of their FMLA coverage are not guaranteed reinstatement.

Forms for requesting Family and Medical Leaves of Absence are kept in human resources.

PART B. Leaves for Employees Who Do Not Meet the Minimum Service Requirements for FMLA

Full-time regular and part-time regular employees who have less than one year of service and/or who have not worked a minimum of 1,250 hours during the twelve-month period prior to their leave may request leaves of absence for the reasons set forth above in Part A, subject to the following terms and conditions:

1. Leave requests must be made at least thirty days in advance of the date the employee would like the leave to begin or, in emergency situations, with as much advance notice as is practicable, using RTA'S official Leave-of Absence Request Form. (Normally, this should be within two business days of when the need for the leave becomes known to the employee.)

2. The certification requirements and the conditions for required use of accrued time off,



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benefits, and continuation of group health insurance during leave set forth in Part A apply to all leave requests.

3. Unless applicable state or local law requires otherwise, leaves will be limited to a thirty-day maximum duration, except leaves for the employee's own serious health condition, which may be granted for up to an eight-week period and which may be taken intermittently.

4. Unless applicable state or local law requires otherwise, reinstatement will not be guaranteed to any employee requesting a leave under this Part B. However, RTA will endeavor to place employees returning from leave in their former position or a position comparable in status and pay, subject to budgetary restrictions and RTA's need to fill vacancies and/or its ability to find qualified temporary replacements.

All questions regarding leaves of absence should be directed to Human Resources.

Designation notice (RTA FMLA Program) Request Forms are in human resources entitled "Designation Notice Form."

MATERNITY AND CHILDBIRTH LEAVES OF ABSENCE

Employees who are expecting and qualify for leave under the Family and Medical Leave Act (FMLA) may take up to 12 weeks leave upon meeting the criteria described in Part A.

Employees who do not qualify for FMLA Leave may still qualify for maternity leave under RTA policy. RTA will provide a female employee with twelve weeks' unpaid disability leave for normal pregnancy, childbirth or related medical conditions.

For abnormal pregnancies or abnormal childbirth or related medical conditions, which cause the employee to become temporarily disabled, RTA will provide up to four months of disability leave. Appropriate medical certification of the employee's continued disability and inability to work will be required. The employee will be required to provide reasonable notice when she intends to begin the leave and the estimated duration.

Employees will be required to report periodically to their supervisor regarding the employee's status and intention to return to work.

Employees taking pregnancy and childbirth leave will be required to use all unused vacation, sick, and personal days during the pregnancy and childbirth leave period. Once such benefits are exhausted, the balance of the leave will be without pay.

Employees who qualify for leave under the Family and Medical Leave Act and are disabled for longer than the 12-week leave period permitted under that act, may be eligible to extend their leave for a reasonable period of time, generally not to exceed a total leave



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time of 16 weeks (4 months) and medical certification will be required. FMLA leave will run concurrently with maternity leave.

Reinstatement rights provided under the FMLA will also be provided to employees extending their leave to 16 weeks. Please see a member of Human Resources for additional information.

LEAVE FOR BONE MARROW DONORS

Louisiana law provides that RTA must provide paid annual leaves of absence for any employee undergoing a procedure to become a bone marrow donor. The combined length of the leaves shall not exceed 40 work hours, unless RTA agrees in advance. RTA may require medical verification by a physician of the purpose and length of each leave requested by the employee to donate bone marrow.

1.0 FLOWCHART

N/A

2.0 REFERENCES

- Employment Status (HC34)
- Progressive Discipline (HC25)
- Drug and Alcohol Free Workplace (SAF1)

3.0 ATTACHMENTS

1. Designation notice (RTA FMLA Program)

4.0 PROCEDURE HISTORY

N/A

5.0 SPONSOR DEPARTMENT

Human Capital



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Attachment 1

DESIGNATION NOTICE *RTA Family and Medical Leave Program*

Instructions: This entire form should be completed by the Human Capital Manager or his/her designee. Check all that apply and complete relevant dates and other information.

Employee's Name: _____

Date: _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided and decided (check determination that applies):

☐ **Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.**

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date; we are providing the following information about the amount of time that will be counted against your leave entitlement:

- ☐ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____
- ☐ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised:

- ☐ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position **is** ☐ **is not** attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.
- If you are released to return to work before your Family and Medical Leave expires, you must notify the appointing authority to schedule a return date.

☐ **Additional information is needed to determine if your FMLA leave request can be approved:**

☐ The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____ (at least seven



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calendar days from date of this form), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.

Please provide the following:

_____ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

- _____ **Your FMLA Leave request is Not Approved.**
_____ The FMLA does not apply to your leave request.
_____ You have exhausted your FMLA leave entitlement in the applicable 12-month

NOTIFICATION OF ELIGIBILITY, RIGHTS AND RESPONSIBILITIES

RTA Family and Medical Leave Program

Instructions: This entire form should be completed by the Human Capital Director or his/her designee. Check all that apply and complete relevant dates and other information.

Employee's Name: _____

On _____, you informed us that you needed Family and Medical Leave Act (FMLA) coverage beginning on _____ for:

_____ Your pregnancy related disability, or the care of your newborn child or child placed with you for adoption or foster care.

_____ Your own serious health condition.

_____ Because you are needed to care for your _____ spouse/domestic partner; _____ child; _____ parent due to his or her serious health condition.

_____ Because of a qualifying exigency arising out of the fact that your _____ spouse/domestic partner; _____ son or daughter; _____ parent is a member of a regular component of the Armed Forces and is on (or has been notified of an impending call to) active duty to a foreign country.

_____ Because of a qualifying exigency arising out of the fact that your _____ spouse/domestic partner; _____ son or daughter; _____ parent is a member of a reserve component of the



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Armed Forces and is on (or has been notified of an impending call to) active duty to a foreign country in a contingency operation.

____ Because you are the ____ spouse/domestic partner; ____ son or daughter; ____ parent; ____ next of kin of a covered service member with a serious injury or illness.

This notice is to inform you that you are:

____ Eligible for FMLA leave (see below for Rights and Responsibilities)

____ Not eligible for FMLA leave due to _____

If you have questions, contact _____ or view the Family and Medical Leave poster at _____

CERTIFICATION

As explained above, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12 month period. However, in order for us to determine whether your absence qualifies as FMLA leave, **you must return the following information to us by _____** (at least 15 days from the date the employee gave notification of need for FMLA leave). If sufficient information is not provided in a timely manner, your leave may be denied.

In order to approve your leave, the following is required:

- ____ Sufficient certification to support your request for FMLA leave. A certification form containing the information necessary to support your request ____ is ____ is not enclosed
- ____ Sufficient documentation to establish the required relationship between you and your family member
- ____ Other information needed _____
- ____ No additional information is required

RIGHTS AND RESPONSIBILITIES

If you do qualify for FMLA leave, you will have the following **rights** while out on FMLA leave:

- You have a right for up to
____ 90 days or the equivalent to 520 hours (pro-rated for part-time employees) using a "rolling" 12-month period of unpaid leave measured backward from the date of your FMLA usage



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_____ 26 workweeks of unpaid leave in a single 12-month period to care for a covered service member with a serious injury or illness. This single 12-month period commenced on _____.

- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- You may choose between having sick, vacation, compensatory time, or executive leave run concurrently with or outside of your unpaid leave entitlement. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave. Please see the Personnel Rules on the InWeb for qualifying conditions for taking paid leave.

If you do qualify for FMLA leave, you will have the following **responsibilities** while on FMLA leave.

- You are responsible for arranging your payment of the employee's share of monthly premiums for health insurance while you are on leave. Please contact _____ at _____ to make such arrangements. Health insurance premiums are due on the 15th day of the month prior to the month for which coverage is sought. You have a 30 day grace period from the due date in which to make premium payments. If payment is not made on or before the grace period expires, your health insurance will be cancelled, provided we notify you in writing at least 15 days before the termination date that your health coverage will lapse.
- Optional insurance plans such as group term life, accidental death & dismemberment and long term disability are not covered by FMLA. If you want to continue your coverage in these plans you will be required to pay the employee and RTA's portion of the monthly premium. Premiums are due by the 15th of the month for the following month. If you do not elect to continue the optional insurances, coverage can be reinstated upon your return to work provided you work at least 80 hours per month.
- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered service member's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse RTA for its share of health insurance premiums paid on your behalf during your FMLA leave.
- Your appointing authority has determined that you are _____ are not _____ responsible for completing medical recertification of FMLA every _____ (frequency shall not be any sooner than every 30 days).



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- You must notify your human Capital Department if you are released to return to work prior to expiration of your leave to schedule a return date.

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact:

_____ at _____.



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RTA Family and Medical Leave Program Employee Request for Leave

Name: _____ Department: _____

Current Address: _____

Start Date of Anticipated Leave: _____

Expected Date of Return to Work: _____

Reason for Leave:

- ☐ Pregnancy related disability or childbirth.
- ☐ Care of your newborn child or child placed with you for adoption or foster care.
- ☐ Medical leave for your own "serious health condition." ¹
- ☐ Care of your spouse/domestic partner, parent or child, or the parent or child of your spouse/domestic partner, with a "serious health condition."¹
- ☐ Care of your spouse/domestic partner, parent, son, daughter or next of kin who is a covered servicemember.¹
- ☐ Qualifying exigency¹ resulting from a spouse/domestic partner, child, or parent being on or called to active military duty.

¹ "Serious health condition," "covered service member" and "qualifying exigency" are defined on the back of this form. Please read the back of this form to determine whether your need for leave may qualify under these definitions.

NOTE: A leave request based on an employee's serious health condition or the serious health condition of an immediate family member must be supported by medical certification from a health care provider. Failure to provide medical certification to support your Family and Medical Leave request, when it is based on a serious health condition, may result in a rejection of your leave request. In the event that the medical certification provided by your health care provider is inadequate to verify that the condition qualifies under Family and Medical Leave, a human resources manager or his or her designee may seek clarification or authentication from your health care provider, or a health care provider retained by the RTA may seek clarification or authentication from your health care provider or conduct an examination necessary to determine whether medical certification is appropriate.

I understand that failure to return to work at the end of my leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by the head of the RTA department (or their designee) where I am employed.

Signature: _____ Date: _____

I hereby authorize a health care provider representing the RTA or a human resources manager or his or her designee to contact my health care provider for authentication or clarification of my medical certification.



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Signature: _____

Date: _____

Date rec'd by Supervisor: _____

Supervisor's Initials: _____



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RTA Family and Medical Leave Program Employee Request for Leave, Side 2

"Serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either:

○ **Hospital Care**

Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or resulting from such inpatient care.

OR

○ **Continuing Treatment:** For a condition that either prevents the employee from performing the functions of his/her job, or prevents the qualified family member from participating in school or other activities. These include the following:

○ **Absence Plus Treatment**

A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

- Treatment two or more times by a health care provider, by a nurse or physician's assistant under the direct supervision of a health care provider, or by a provider of health services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
- Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of a health care provider.

○ **Pregnancy**

Any period of incapacity due to pregnancy, or for prenatal care.

○ **Chronic Conditions Requiring Treatments**

A chronic condition which:

- Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under the direct supervision of a health care provider;
- Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

○ **Permanent/Long-term Conditions Requiring Supervision**

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

○ **Multiple Treatments (Non-Chronic Conditions)**

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under the orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Military Family Leave Definitions:

"Covered Service member" is 1) A member of the Armed Forces, including the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties and for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list; or 2) A veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces and who was a member of the Armed Forces any time during the period of 5 years preceding the date on which the veteran undergoes the medical treatment, recuperation or therapy.



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"Qualifying Exigency" leave shall be for the following, provided they are directly related to the service member's call to or being on active duty: 1) Attending to issues arising from short notice deployment (up to seven days leave), 2) Attending military events and related activities, 3) Arranging for childcare or attending school meetings, 4) Making or updating financial or legal arrangements (example: preparing a will or obtaining military benefits), 5) Attending counseling provided by a non-healthcare provider, 6) Accompanying the service member while on rest and recuperation leave during deployment (up to five days leave), and 7) Attending post-deployment military sponsored events and ceremonies



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**Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)**

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

