



## 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: \_\_\_\_\_

## **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 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 will be required to utilize available sick, vacation, and/or personal leave while out on FMLA.

### **Parental Leave Paid Non- Accrued Time:**

- 8 weeks paid non-accrued time is given for maternity leave.
- 2 Weeks paid time non-accrued time is given for paternity leave for fathers or domestic partners to care for a newborn child. This may not be taken simultaneously if the spouse or domestic partner also works at RTA.



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Parental Leave shall be recorded as leave granted in addition to the employee's accumulated sick and annual leave for the approved durations provided herein. All other parental leave shall be recorded as leave without pay, except that an employee may charge such leave against accumulated annual and/or sick leave, or may use a combination of annual leave, sick leave, and/or leave without pay. The employee is required to present a statement from a physician and any other verification requested by the appointing authority that is reasonable and necessary to confirm eligibility.

Parental leave may not be used by an employee more than once in any twelve (12) month period.

8 Weeks paid non-accrued leave time given for adoptions of children under the age of 5 years' old

Leave for these purposes shall be recorded as leave without pay after the non-accrued time is used; however, the appointing authority may require that the employee use accrued annual leave or, in cases of the employee's own illness, sick 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 utilize available sick, vacation, and/or personal leave once the additional hours of paid non-accrued time is used while out on FMLA.

All group health benefits will continue during the leave period 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. 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.

### **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



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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, 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 30-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



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RTA policy. RTA will provide a female employee with 8 weeks paid leave and 4 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 the first 8 weeks of non-accrual paid leave is exhausted. When all other 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 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)



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### **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

### 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." <sup>1</sup>
- Care of your spouse/domestic partner, parent or child, or the parent or child of your spouse/domestic partner, with a "serious health condition."<sup>1</sup>
- Care of your spouse/domestic partner, parent, son, daughter or next of kin who is a covered servicemember.<sup>1</sup>
- Qualifying exigency<sup>1</sup> resulting from a spouse/domestic partner, child, or parent being on or called to active military duty.

<sup>1</sup> "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: ( )