



NATCHITOCHES PARISH SHERIFF'S OFFICE
Human Resources Division

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Family Medical Leave Act (FMLA)

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4-3. Family and Medical Leave

The Leave Policy

Deputies may be entitled to a leave of absence under the Family and Medical Leave Act (FMLA). This policy provides deputies information concerning FMLA entitlements and obligations deputies may have during such leaves. If deputies have any questions concerning FMLA leave, they should contact the Head of Human Resources.

I. Eligibility

FMLA leave is available to "eligible deputies." To be an "eligible deputy," the deputy must: 1) have been employed by Natchitoches Parish Sheriff's Office for at least 12 months (which need not be consecutive); 2) have been employed by Natchitoches Parish Sheriff's Office for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and 3) be employed at a worksite where

Natchitoches Parish Sheriff's Office

50 or more deputies are located within 75 miles of the worksite.

Special hours of service eligibility requirements apply to airline flight crew deputies.

II. Entitlements

As described below, the FMLA provides eligible deputies with a right to leave, health insurance benefits and, with some limited exceptions, job restoration.

A. Basic FMLA Leave Entitlement

The FMLA provides eligible deputies up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12-month period. The 12-month period is determined based on a 12-month period measured forward from the start date of the employee's first FMLA leave. Leave may be taken for any one, or for a combination, of the following reasons:

- To care for the deputy's child after birth or placement for adoption or foster care;
- To care for the deputy's spouse, son, daughter or parent (but not in-law) who has a **serious health condition**;
- For the deputy's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the deputy unable to perform one or more of the essential functions of the deputy's job; and/or
- Because of any **qualifying exigency** arising out of the fact that the deputy's spouse, son, daughter or parent is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty) in the Reserves component of the Armed Forces for deployment to a foreign country in support of contingency operation or Regular Armed Forces for deployment to a foreign country.

A **serious health condition** is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents deputies from performing the functions of their job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

B. Additional Military Family Leave Entitlement (Injured Servicemember Leave)

In addition to the basic FMLA leave entitlement discussed above, an eligible deputy who is the spouse, son, daughter, parent or next of kin of a **covered servicemember** is entitled to take up to 26 weeks of leave during a single 12-month period to care for the servicemember with a serious injury or illness. Leave to care for a servicemember shall only be available during a single-12 month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period. The single 12-month period begins on the first day an eligible deputy takes leave to care for the injured servicemember.

A **"covered servicemember"** is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is on the temporary retired list, for a serious injury or illness. These individuals are referred to in this policy as "current members of the Armed Forces." **Covered servicemembers** also include a veteran who is discharged or released from military services under condition other than dishonorable at any time during the five years preceding the date the eligible deputy takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. These individuals are referred to in this policy as "covered veterans."

The FMLA definitions of a "serious injury or illness" for current Armed Forces members and covered veterans are distinct from the FMLA definition of "serious health condition" applicable to FMLA leave to care for a covered family member.

C. Intermittent Leave and Reduced Leave Schedules

FMLA leave usually will be taken for a period of consecutive days, weeks or months. However, deputies also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the deputy or covered family member or the serious injury or illness of a covered servicemember. Qualifying exigency leave also may be taken on an intermittent basis.

D. No Work While on Leave

The taking of another job while on family/medical leave or any other authorized leave of absence is grounds for immediate discharge, to the extent permitted by law.

E. Protection of Group Health Insurance Benefits

During FMLA leave, eligible deputies are entitled to receive group health plan coverage on the same terms and conditions as if they had continued to work.

F. Restoration of Employment and Benefits

At the end of FMLA leave, subject to some exceptions including situations where job restoration of "key deputies" will cause Natchitoches Parish Sheriff's Office substantial and grievous economic injury, deputies generally have a right to return to the same or equivalent positions with equivalent pay, benefits and other employment terms. Natchitoches Parish Sheriff's Office will notify deputies if they qualify as "key deputies," if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible deputy's FMLA leave.

G. Notice of Eligibility for, and Designation of, FMLA Leave

Deputies requesting FMLA leave are entitled to receive written notice from Natchitoches Parish Sheriff's Office telling them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA leave, deputies are entitled to receive written notice of: 1) their rights and responsibilities in connection with such leave; 2) Natchitoches Parish Sheriff's Office's designation of leave as FMLA-qualifying or non-qualifying, and if not FMLA-qualifying, the reasons why; and 3) the amount of leave, if known, that will be counted against the deputy's leave entitlement.

Natchitoches Parish Sheriff's Office may retroactively designate leave as FMLA leave with appropriate written notice to deputies provided Natchitoches Parish Sheriff's Office's failure to designate leave as FMLA-qualifying at an earlier date did not cause harm or injury to the deputy. In all cases where leaves qualify for

Natchitoches Parish Sheriff's Office

FMLA protection, Natchitoches Parish Sheriff's Office and deputy can mutually agree that leave be retroactively designated as FMLA leave.

III. Deputy FMLA Leave Obligations

A. Provide Notice of the Need for Leave

Deputies who take FMLA leave must timely notify Natchitoches Parish Sheriff's Office of their need for FMLA leave. The following describes the content and timing of such deputy notices.

1. Content of Deputy Notice

To trigger FMLA leave protections, deputies must inform the Head of Human Resources and/or their Supervisor of the need for FMLA-qualifying leave and the anticipated timing and duration of the leave, if known. Deputies may do this by either requesting FMLA leave specifically, or explaining the reasons for leave so as to allow Natchitoches Parish Sheriff's Office to determine that the leave is FMLA-qualifying. For example, deputies might explain that:

- a medical condition renders them unable to perform the functions of their job;
- they are pregnant or have been hospitalized overnight;
- they or a covered family member are under the continuing care of a health care provider;
- the leave is due to a qualifying exigency caused by a military member being on covered active duty or called to covered active duty status to a foreign country; or
- if the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered servicemember with a serious injury or illness.

Calling in "sick," without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Deputies must respond to Natchitoches Parish Sheriff's Office's questions to determine if absences are potentially FMLA-qualifying.

If deputies fail to explain the reasons for FMLA leave, the leave may be denied. When deputies seek leave due to FMLA-qualifying reasons for which Natchitoches Parish Sheriff's Office has previously provided FMLA-protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA leave.

2. Timing of Deputy Notice

Deputies must provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, deputies must provide Natchitoches Parish Sheriff's Office notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Deputies who fail to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

B. Cooperate in the Scheduling of Planned Medical Treatment (Including Accepting Transfers to Alternative Positions) and Intermittent Leave or Reduced Leave Schedules

When planning medical treatment, deputies must consult with Natchitoches Parish Sheriff's Office and make a reasonable effort to schedule treatment so as not to unduly disrupt Natchitoches Parish Sheriff's Office's operations, subject to the approval of the deputy's health care provider. Deputies must consult with

Natchitoches Parish Sheriff's Office

Natchitoches Parish Sheriff's Office prior to the scheduling of treatment to work out a treatment schedule that best suits the needs of both Natchitoches Parish Sheriff's Office and the deputies, subject to the approval of the deputy's health care provider. If deputies providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, Natchitoches Parish Sheriff's Office may require deputies to attempt to make such arrangements, subject to the approval of the deputy's health care provider.

When deputies take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the deputy or a family member, including during a period of recovery from a serious health condition or to care for a covered servicemember, Natchitoches Parish Sheriff's Office may temporarily transfer deputies, during the period that the intermittent or reduced leave schedules are required, to alternative positions with equivalent pay and benefits for which the deputies are qualified and which better accommodate recurring periods of leave.

When deputies seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, deputies must advise Natchitoches Parish Sheriff's Office of the reason why such leave is medically necessary. In such instances, Natchitoches Parish Sheriff's Office and deputy shall attempt to work out a leave schedule that meets the deputy's needs without unduly disrupting Natchitoches Parish Sheriff's Office's operations, subject to the approval of the deputy's health care provider.

C. Submit Medical Certifications Supporting Need for FMLA Leave (Unrelated to Requests for Military Family Leave)

Depending on the nature of FMLA leave sought, deputies may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three types of FMLA medical certifications: an **initial certification**, a **recertification** and a **return to work/fitness for duty certification**.

It is the deputy's responsibility to provide Natchitoches Parish Sheriff's Office with timely, complete and sufficient medical certifications. Whenever Natchitoches Parish Sheriff's Office requests deputies to provide FMLA medical certifications, deputies must provide the requested certifications within 15 calendar days after Natchitoches Parish Sheriff's Office's request, unless it is not practicable to do so despite the deputy's diligent, good faith efforts. Natchitoches Parish Sheriff's Office will inform deputies if submitted medical certifications are incomplete or insufficient and provide deputies at least seven calendar days to cure deficiencies. Natchitoches Parish Sheriff's Office will deny FMLA leave to deputies who fail to timely cure deficiencies or otherwise fail to timely submit requested medical certifications.

With the deputy's permission, Natchitoches Parish Sheriff's Office (through individuals other than the deputy's direct supervisor) may contact the deputy's health care provider to authenticate or clarify completed and sufficient medical certifications. If deputies choose not to provide Natchitoches Parish Sheriff's Office with authorization allowing it to clarify or authenticate certifications with health care providers, Natchitoches Parish Sheriff's Office may deny FMLA leave if certifications are unclear.

Whenever Natchitoches Parish Sheriff's Office deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

1. Initial Medical Certifications

Deputies requesting leave because of their own, or a covered relation's, serious health condition, or to care for a covered servicemember, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If deputies

Natchitoches Parish Sheriff's Office

provide at least 30 days' notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If Natchitoches Parish Sheriff's Office has reason to doubt initial medical certifications, it may require deputies to obtain a second opinion at Natchitoches Parish Sheriff's Office's expense. If the opinions of the initial and second health care providers differ, Natchitoches Parish Sheriff's Office may, at its expense, require deputies to obtain a third, final and binding certification from a health care provider designated or approved jointly by Natchitoches Parish Sheriff's Office and the deputy.

2. Medical Recertifications

Depending on the circumstances and duration of FMLA leave, Natchitoches Parish Sheriff's Office may require deputies to provide recertification of medical conditions giving rise to the need for leave. Natchitoches Parish Sheriff's Office will notify deputies if recertification is required and will give deputies at least 15 calendar days to provide medical recertification.

3. Return to Work/Fitness for Duty Medical Certifications

Unless notified that providing such certifications is not necessary, deputies returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide Natchitoches Parish Sheriff's Office with medical certification confirming they are able to return to work and the deputies' ability to perform the essential functions of the deputies' position, with or without reasonable accommodation. Natchitoches Parish Sheriff's Office may delay and/or deny job restoration until deputies provide return to work/fitness for duty certifications.

D. Submit Certifications Supporting Need for Military Family Leave

Upon request, the first time deputies seek leave due to qualifying exigencies arising out of the covered active duty or call to covered active duty status of a military member, Natchitoches Parish Sheriff's Office may require deputies to provide: 1) a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service; and 2) a certification from the deputy setting forth information concerning the nature of the qualifying exigency for which leave is requested. Deputies shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active duty status of the same or a different military member.

When leave is taken to care for a covered servicemember with a serious injury or illness, Natchitoches Parish Sheriff's Office may require deputies to obtain certifications completed by an authorized health care provider of the covered servicemember. In addition, and in accordance with the FMLA regulations, Natchitoches Parish Sheriff's Office may request that the certification submitted by deputies set forth additional information provided by the deputy and/or the covered servicemember confirming entitlement to such leave.

E. Substitute Paid Leave for Unpaid FMLA Leave

Deputies must use any accrued paid time while taking unpaid FMLA leave.

The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with the deputy's FMLA entitlement.

Natchitoches Parish Sheriff's Office

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall run concurrently with any FMLA leave entitlement. Upon written request, Natchitoches Parish Sheriff's Office will allow deputies to use accrued paid time to supplement any paid disability benefits.

F. Pay Deputy's Share of Health Insurance Premiums

During FMLA leave, deputies are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless Natchitoches Parish Sheriff's Office notifies deputies of other arrangements, whenever deputies are receiving pay from Natchitoches Parish Sheriff's Office during FMLA leave, Natchitoches Parish Sheriff's Office will deduct the deputy portion of the group health plan premium from the deputy's paycheck in the same manner as if the deputy was actively working.

If FMLA leave is unpaid, deputies must pay their portion of the group health premium through a method determined by the organization upon leave.

IV. Exemption for Highly Compensated Employees

Natchitoches Parish Sheriff's Office may choose not to return highly compensated deputies (highest paid 10% of deputies at a worksite or within 75 miles of that worksite) to their former or equivalent positions following a leave if restoration of employment will cause substantial economic injury to Natchitoches Parish Sheriff's Office. (This fact-specific determination will be made by Natchitoches Parish Sheriff's Office on a case-by-case basis.) Natchitoches Parish Sheriff's Office will notify deputies if they qualify as a "highly compensated", if Natchitoches Parish Sheriff's Office intends to deny reinstatement, and of the deputy's rights in such instances.

V. Questions and/or Complaints about FMLA Leave

If you have questions regarding this FMLA policy, please contact the Head of Human Resources. Natchitoches Parish Sheriff's Office is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If deputies believe their FMLA rights have been violated, they should contact the Head of Human Resources immediately.

Natchitoches Parish Sheriff's Office will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Deputies also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations.

VI. Coordination of FMLA Leave with Other Leave Policies

The FMLA does not affect any federal, state or local law prohibiting discrimination, or supersede any State or local law that provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult Natchitoches Parish Sheriff's Office's other leave policies in this handbook or contact the Head of Human Resources.