

State of Florida



**Department of
HIGHWAY SAFETY AND MOTOR VEHICLES**

SUBJECT FAMILY SUPPORTIVE WORK PROGRAM	POLICY NUMBER 5.05
POLICY MAINTENANCE ADMINISTRATOR: Chief, Bureau of Personnel Services	
PURPOSE/SCOPE: To establish Department policy and procedures for maintaining job performance and delivery of services while balancing family responsibilities and compliance with the Federal Family Medical Leave Act and the Florida Supportive Family Leave Act.	

I. AUTHORITY

Section 110.1522, Florida Statutes
Section 110.221, Florida Statutes
Chapter 60L-23, Florida Administrative Code
29 U.S. Code, Family and Medical Leave Act of 1993
Title 29, Part 825, C.F.R.
Governor's Executive Order 07-01, Code of Ethics and Code of Personal Responsibility,
Effective January 2, 2007

II. DEFINITIONS

- A. Administrative Leave - Authorized leave of absence with pay that is not charged against a member's accrued leave.
- B. Administrative Leave for Family Activities - Authorized leave with pay to allow a member up to one hour per month to participate in school-related activities. The activities do not have to involve a family member.
- C. Child (son or daughter) - A biological, adopted or foster child, stepchild, legal ward, or a child of a person standing in loco parentis (acting in place of a parent) who is under 18 years of age, or 18 years of age or older and incapable of self-care because of mental or physical disability.
- D. Core Work Hours - A specific period of time when all members for a work unit are scheduled to work.

Executive Director Original Signature on File	Effective Date 06/01/83
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- E. Eligible Member -Career Service, OPS, Selected Exempt Service and Senior Management Service members are eligible for family medical leave subject to requirements referenced later in this policy.
- F. Employment Benefits - All benefits provided or made available to members by the state, including group life insurance, health insurance, disability insurance, sick leave, annual leave, education benefits and pensions.
- G. Family Leave -Authorized leave with or without pay for a period not to exceed 30 calendar days for family activities other than Family Medical Leave. Eligibility for Family Leave with or without pay will commence on January 1 and end on December 31 of each year, whether used continuously or intermittently.
- H. Family Medical Leave (FML) - State entitlement that permits leave, with or without pay for a period not to exceed six months within a one year period whether taken consecutively or intermittently for serious health condition of the member or an immediate family member as defined in II. L.
- I. Family Medical Leave Act (FMLA) of 1993 -The regulation of the Family Medical Leave Act of 1993, at 29 CFR, Part 825, and the Federal Department of Labor regulations providing members with entitlement to twelve workweeks of paid or unpaid leave during a one year period for reasons of the birth and first year of care of a child or placement of a child for adoption or foster care; personal illness because of a serious health condition; or to care for a family member with a serious health condition. The FMLA also allows certain leave for the families of service men and service women as described herein. For purposes of this policy, the Department may allow up to six months of FMLA Leave to comply with F.S. 110.221.
- J. Flextime -Work schedules approved by the supervisor that allow a member to vary arrival and departure times.
- K. Health Care Provider - A person authorized to practice in the State in which such practice occurs and includes doctors of medicine or osteopathy, podiatrist, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist), nurse practitioners and nurse-midwives, clinical social workers and Christian Scientists listed with the First Church of Christ, Scientist in Boston, Massachusetts and any health care provider recognized by the State or the State's group health plan benefits manager.
- L. Immediate Family - The spouse and the great grandparents, grandparents, parents, brothers, sisters, children and grandchildren of both the employee and the spouse.

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- M. Intermittent Leave -Leave taken in separate blocks of time, rather than one continuous period of time, due to a single illness or injury. This may include leave of periods from a quarter hour or leave taken periodically, e.g., leave every month or in some other periodic basis.

- N. Member -An employee filling an established position or an OPS member having completed 1250 hours of work with the State of Florida during the 12 months preceding the request for Family Medical Leave.

- O. Medical Certification -Certification prepared by a health care provider verifying a member has been seen and treated by the provider on a specific date. This certification may include other information as listed in the certification section of the Management Policy 5.01.

- P. Non-Standard Workweek - A work period comprising other than five eight-hour days in a workweek, Friday through Thursday.

- Q. Parent -The biological parent of a member or an individual who stood in loco parentis to a member while the member is a son or daughter under the age of eighteen.

- R. Parental Leave -Leave which will be granted for a period up to six months for the birth and care of a son or daughter of the member or member's spouse, and/or for the adoption or foster care placement of a son or daughter with the member or member's spouse.

- S. Part-Time Member - member in an established position who works less than 40 hours per workweek.

- T. Reduced Leave Schedule - A leave schedule that temporarily reduces the member's usual number of hours per workday or workweek due to a serious health condition of the member or the member's family.

- U. Serious Health Condition - An illness, injury, impairment or physical or mental condition that involves:
 - 1. Any period of incapacity or treatment in connection with or consequent to inpatient care (e.g., an overnight stay) in a hospital, hospice or residential medical care facility;

 - 2. Any period of incapacity requiring absence from work, school or other regular daily activities, of more than three calendar days that also involves continuing treatment by (or under the supervision of) a doctor; or

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3. Any continuing treatment by (or under the supervision of) a doctor for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or
4. For prenatal care.
- V. Standard Workweek - Five eight-hour workdays in a seven-day period, beginning at 12:01 a.m., Friday, and ending at midnight, Thursday.
- W. Twelve-Month Period - The 12-month period of leave entitlement under Family Medical Leave Act that is measured from the effective date established in the leave notification provided the member by appropriate management.

III. POLICY

It is the policy of the Florida Department of Highway Safety and Motor Vehicles to demonstrate commitment to members by enabling them to have a period of time on paid or unpaid leave required for recuperation from the serious personal illness or injury of the member or a member of their immediate family, or devote care and attention to their families while maintaining their job performance and delivery of services.

This policy conforms to the provisions and intent of the Governor's Executive Order 07-01.

IV. RESPONSIBILITIES

A. Manager/Supervisor Responsibilities:

1. Approval or disapproval of member requests for leave under this policy.
2. Providing appropriate notice to the DHSMV Bureau of Personnel Services regarding members using leave under this policy.

B. Member Responsibilities:

1. Requesting leave in writing under this policy and providing appropriate medical certification within identified timelines.
2. Contacting the Bureau of Personnel Services to arrange for information and payment of insurance premiums if member will be in non-pay status.

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C. Office of Employee Relations' Responsibilities:

1. Provide guidance and assistance to managers, supervisors, and members regarding this policy.
2. Provide consultation through the Supervisor Assistance System.
3. Work with Divisions in noticing members of their entitlement. Supervisors shall inform OER in situations where noticing the member is appropriate.
4. Identify members through their representation on the Sick Leave Pool Committee.

V. NON-STANDARD WORK SCHEDULES/JOB SHARING

- A. Non-standard work schedules may include non-standard workweeks and flextime may be used to assist members in meeting family needs.
- B. Non-standard scheduling must be based upon the understanding that the work must be accomplished in an effective and efficient manner in accordance with Management Policy 5.01, Attendance and Leave.
- C. A member may request a shared employment appointment to meet family responsibilities or needs that cannot be met if the member were to work full-time. The division director has the discretion to approve or deny a request for job sharing .

VI. FAMILY OR ADMINISTRATIVE LEAVE FOR FAMILY RESPONSIBILITIES

- A. A member may request, in writing, family leave (non medical) not to exceed 30 calendar days within a calendar year for those family responsibilities that are not covered under family medical leave. The member may request family leave without pay or use annual leave, regular and special compensatory leave.
- B. The immediate supervisor may approve family leave for caring aging parents, enrolling dependent children in schools, visiting family members in places which require extensive travel time, settling a parent's estate, and other significant situations and conditions that are not routine in nature for which the member's involvement is expected.
- C. Each member will be granted one hour of administrative leave for family activities per month to participate in local school activities (preschool through high school), visitation of children in child care centers, or local school activities such as registration, tutoring, guest speaking, career day activities, conferences, field trips, after school homework center programs, graduation, or the Partners for Excellence Program.
- D. Each member is considered "family" regardless of parental or marital status, and is eligible for administrative leave as noted in subsection VI. C.

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- E. Administrative leave for family activities can only be used while in a pay status and cannot be used while on approved leave without pay.
- F. Administrative leave, as authorized in this section, cannot be accrued or be paid for if not used.

VII. LEAVE USED UNDER THE FEDERAL FAMILY MEDICAL LEAVE ACT (FMLA) AND PARENTAL LEAVE

- A. General Information -- Two types of leave that an eligible member may use under the Family Supportive Work Program: Family Medical Leave and Parental Leave.
- B. Family Medical Leave
 - 1. Family Medical Leave is used when a member or a member of their immediate family member has a serious health condition.
 - 2. By Federal law, an eligible member is one who must have: (1) worked for the State for at least 12 months; and (2) worked at least 1,250 hours (does not include paid leave or holidays) during the year preceding the start of the FMLA leave.
 - 3. Eligible members are entitled to 12 workweeks, or a total of 480 hours if taken intermittently, of family medical leave under the FMLA (Federal law). Prior approval of the entitlement is not required as long as the member meets the criteria established under the Act.
 - 4. Leave counted towards the member's annual entitlement under the FMLA may be leave with pay (accrued sick, annual, or compensatory leave) or leave without pay.
 - 5. In any case for which the necessity of Family Medical Leave is foreseeable based on planned medical treatment, the member will make a reasonable effort to schedule the treatment to cause the least disruption to the operation of the Department, subject to the approval of the health care provider; and will provide the Department with not less than 30 days notice before the date leave is to begin, when practicable.
 - 6. Approval for Family Medical Leave is contingent upon the receipt of medical certification.
 - 7. A member may choose, or the Department may require, the member to substitute accrued leave as appropriate for leave without pay.
 - 8. Family Medical Leave will be granted for a period not to exceed six months and must be completed within one year from the date the family medical leave begins.

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By Department policy, this leave may be extended for an additional six-month period if the member has 10 or more years of service with the State. Leave may be used for the member or one or more immediate family members and may be used intermittently, consecutively or for a reduced work schedule, when medically necessary. For any period beyond the initial six months, management should take into consideration of the impact of the member's absence on the work unit in determining whether to extend the leave. FMLA and FML shall run concurrently (i.e. the first 12 weeks of FML shall be deemed leave under the FMLA).

9. Using leave intermittently or on a reduced work schedule will not reduce the total amount of leave to which the member is entitled.
10. If the member requests intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment, the Department may require the member to reassign temporarily to another position for which the member is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of absence than the member's regular position.
11. Requests for Family Leave will be in writing and will be supported by appropriate medical certification completed by the health care provider of the member or their immediate family member.
12. In any case in which the Department has reason to question the sufficiency of the certification provided for Family Medical Leave, the Department may require, at its own expense, that the member obtain the opinion of a second health care provider designated or approved by the Department, to obtain verification or clarification of any information certified under subsection VII B. 11 for such leave. The designated health care provider designated or approved jointly by the Department and the member.
13. In any case in which the second opinion in the original certification, the Department may require, at its own expense, that the member obtain the opinion of a third health care provider designated or approved jointly by the Department and the member.
14. The opinion of the third health care provider will be considered final and binding on the Department and the member.
15. The Department may require that the eligible member obtain recertifications on a reasonable basis.

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- C. Under FMLA there are also two categories of leave designed to benefit members of the Armed Services and their families. There is the "Qualifying Exigency Leave" or Family Leave Due to a Call to Active Duty benefit providing 12 weeks of FMLA leave due to the spouse, son, daughter or parent of an employee being placed on active duty or having been notified of an impending call or order to active duty in the Armed Forces. Additionally, there is the category of "Service Member Family Leave" or Caregiver Leave for an Injured Service Member). This benefit provides 26 weeks of FMLA leave during a single 12-month period for a spouse, son, daughter, parent, or nearest blood relative caring for a recovering service member. A recovering service member is defined as a member of the Armed Forces who suffered an injury or illness while on active-duty that rendered the person unable to perform their duties.

Written verification of the family member being called to active duty will be required to qualify for Qualifying Exigency leave, and medical verification will be required for Service Member Family Leave as described in this Section VI, items 11 through 15.

D. Parental Leave

1. Parental Leave is used for the birth and care of a child of a member or member's spouse, and/or for the adoption or foster care placement of a child with the member or member's spouse.
2. Parental Leave with or without pay will be granted for consecutive or intermittent period not to exceed six months and must conclude by the end of the 12-month period beginning with date of birth, adoption or foster care placement of the child. This may also include a period of time prior to the birth, adoption or placement. The request will be in writing and specify the period or periods and types of leave that will be taken.
3. The member is required to provide the Department with not less than 30 days notice before the date the leave is to begin. If the date of birth or placement requires leave to begin in less than 30 days, the member will provide such notice as soon as is practicable.
4. A member may choose, or the Department may require, the member to substitute accrued leave as appropriate for leave without pay as provided under Parental Leave.
5. The member may include one or more of the following in request for Parental Leave.
 - a. Parental Leave Without Pay;
 - b. Parental Leave With Pay;

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- i. Annual, regular or special compensatory leave starting the date determined by the member to cover any part of the six-month period until all or part of the member's specified leave has been used. However, if the member does not request such paid leave, the division director will permit the member to retain his/her accrued leave.
 - ii. Sick leave when an illness, injury, or temporary disability is caused by or contributes to the pregnancy, miscarriage, abortion, childbirth and recovery. A medical certification will be required.
6. A member may use their personal holiday in conjunction with approved Parental Leave.

E. Leave Approval and Return to Duty

1. The division director will approve, in writing, the period of leave to be granted and the date the member will return to work. The member will return to the same position or an equivalent position with the same pay, seniority, retirement, fringe benefits, and other service credits accumulated prior to the leave period prior to the member is able to perform the essential duties of the position. Should any portion of the Family Medical Leave be paid leave, the member will be entitled to all benefits granted under paid leave status.
2. Certain specific information must be included in the approval notification to the member. Samples of this approval letter and other information may be obtained from the Office of Employee Relations, Bureau of Personnel Services.
3. A copy of the division director's approval letter, along with a completed Personnel Action Form, must be provided immediately to the Bureau of Personnel Services with the appropriate documents.
4. Supervisors are responsible for maintaining accurate records of member use of leave approved under this policy.
5. Particularly when the leave of absence is without pay, the appropriate supervisor must also telephone or fax the Bureau of Personnel Services, Attendance and Leave Office, and the Bureau of Accounting, Payroll Office, in the same manner that any instance of leave without pay is reported.
6. Supervisors must immediately notify the Bureau of Personnel Services of member's return to duty from approved leave.

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7. The State contribution for a member enrolled in the State Group Insurance Program will continue for the period the member is on approved family medical leave or parental leave without pay, not to exceed six months in a 12-month period, beginning with the first day of approved leave without pay.