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| Chapter: Leave Benefits | Effective Date: 12/1/23 |
| Title: Family and Medical Leave Act | |
| Statutes: 29 CFR 825.307 | Page: 1 of 12 |
| References: Attorney General opinion, JM-1203 (1990) | Replaces: PRS.28.10, 3/15/23 |

(a) **Policy.**

TJJD grants family and medical leave to eligible employees in accordance with the federal Family and Medical Leave Act (FMLA) and applicable state law.

(b) **Definitions.**

For definitions of certain terms used in this policy, see the [PRS glossary](#).

(c) **Employee Notification of Rights and Responsibilities.**

In addition to this policy, TJJD employees are notified of their rights and responsibilities under the FMLA through the notice prescribed by the United States Department of Labor (Employee Rights and Responsibilities under the FMLA). This notice is:

- (1) provided to each newly hired and rehired employee during the New Employee Orientation Session; and
- (2) posted in employee common-use areas by the human resources administrator.

(d) **Service Eligibility Requirements.**

To be eligible for FMLA-covered leave, an employee must meet the following two service requirements:

- (1) An employee must have at least 12 months of total state service. If the employee had a break in state service that was longer than seven years, the service accrued before the break will not count toward the 12-month service requirement. The only potential exception is a break due to the employee's fulfillment of the employee's National Guard or Reserve military service obligation.
- (2) An employee must have physically worked at least 1,250 hours during the 12-month period immediately before the beginning of FMLA-covered leave.
 - (A) Under the Uniformed Services Employment and Reemployment Rights Act, an employee returning from fulfilling the employee's National Guard or Reserve military obligation shall be credited with the hours of state service that the employee would have performed if the employee had not been performing such military service. Accordingly, the hours that the employee would have worked for the state during the period of such military leave must be added to any hours the employee actually worked for the state during the 12-month period immediately before the FMLA-covered leave begins to determine if the employee meets the required 1,250 hours.
 - (B) Time on any leave other than military leave described above does not count toward the required 1,250 hours.

(e) **FMLA Qualifying Reasons.**

(1) **Birth, Adoption, or Foster Care.**

An eligible employee is entitled to leave protected by the FMLA for the birth of the employee's child or for the placement of a child with the employee for adoption or foster care.

- (A) FMLA-covered leave for the birth of a child is available to both parents of the child.

- (i) For the parent giving birth, FMLA-covered leave for the birth of a child may include periods of leave based on:
 - (I) the parent's physical/medical limitations (leave for this purpose requires medical certification and may be taken on an intermittent basis); and
 - (II) time to bond with and care for the newborn child (leave for this purpose does not require medical certification and may be taken intermittently).
 - (ii) For the parent not giving birth, FMLA-covered leave for the birth of a child may include periods of leave based on:
 - (I) a medical need to care for the employee's spouse during a period of incapacitation of the spouse due to pregnancy or childbirth (leave for this purpose requires medical certification and may be taken on an intermittent basis); and
 - (II) time to bond with and care for the newborn child (leave for this purpose does not require medical certification and may be taken intermittently).
 - (iii) An employee's entitlement to FMLA-covered leave for the birth of the employee's child expires at the end of the 12-month period after the birth date of the child.
- (B) An eligible employee is entitled to leave protected under the FMLA for the placement of a child for adoption or foster care with the employee as follows:
- (i) The employee may take FMLA-covered leave when the employee's absence from work is required for the adoption or placement to proceed (e.g., counseling sessions, court appearances, attorney consultations, travel to another country to complete an adoption). The leave may be taken on an intermittent basis.
 - (ii) The employee may take FMLA-covered leave for time to bond with and care for the newly placed child. FMLA-covered leave for this purpose may be taken intermittently.
 - (iii) An employee may use sick leave for up to six weeks after the employee adopts a child under age three.
 - (iv) An employee's entitlement to FMLA-covered leave for adoption or foster care expires at the end of the 12-month period after the date of placement.
- (2) **Serious Health Condition.**
- (A) An eligible employee is entitled to FMLA-covered leave:
 - (i) because of a serious health condition that makes the employee unable to perform the functions of the employee's job; or
 - (ii) to care for the employee's spouse, child, or parent with a serious health condition.
 - (B) FMLA-covered leave to care for an employee's child is limited to a child who, at the time the leave is to begin, is:
 - (i) under age 18; or
 - (ii) age 18 or older and incapable of self-care because of a mental or physical disability.
 - (C) A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either:
 - (i) an overnight stay in a medical care facility or

- (ii) continuing treatment by a health care provider for a condition that prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in work, school, or daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of:
 - (I) incapacitation of more than three consecutive calendar days combined with:
 - (-a-) treatment by or at the direction of a health care provider two or more times within thirty days of incapacitation, with the first in-person treatment visit within seven days of the first day of incapacitation; or
 - (-b-) at least one in-person visit to a health care provider within seven days of the first day of incapacitation followed by a regimen of continuing treatment (e.g., prescription medications or therapy).
 - (II) incapacitation due to pregnancy or for prenatal care;
 - (III) incapacitation due to a chronic serious health condition that continues over an extended period of time and requires periodic visits to a health care provider for treatment at least twice a year;
 - (IV) incapacitation due to a permanent or long-term condition for which the employee or family member is under the continuing supervision of a health care provider; or
 - (V) conditions requiring multiple treatments by or on orders or referral from a health care provider due to restorative surgery or for a condition that, if left untreated, would likely result in incapacity of more than three days (e.g., chemotherapy, radiation treatments, physical therapy, or dialysis).

(3) **Military Family Leave – Qualifying Exigency.**

- (A) An eligible employee is entitled to FMLA-covered leave because of any “qualifying exigency” arising out of the fact that the employee’s spouse, child, or parent is a member of the Armed Forces and is on active duty or called to active duty status. The child may be of any age.
 - (i) For a member of the Regular Armed Forces, covered active duty or call to covered active duty means duty during the deployment of the member with the Armed Forces to a foreign country.
 - (ii) For a member of the Reserve components of the Armed Forces, covered active duty or call to covered active duty means duty during the deployment of the member to a foreign country under a federal call or order to active duty in support of a contingency operation under relevant sections of Title 10 of the United States Code.

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| Note: The active duty orders of a member of the Armed Forces will generally specify if the member is deployed to a foreign country or is serving in support of a contingency operation under relevant sections of Title 10. |
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- (B) A “qualifying exigency” is a non-medical activity that is directly related to the covered military member’s active duty or call to active duty status and may include the following:
 - (i) short-notice deployment (up to seven days of leave permitted, beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation and such notification is given seven or fewer calendar days prior to the day of deployment);
 - (ii) military events and related activities;

- (iii) childcare and school activities arising from the active duty or call to active duty (e.g., temporary, but not ongoing, childcare arrangements; enrollment in a new school; parent-teacher conferences relating to the call to active duty);
 - (iv) financial and legal arrangements arising from the active duty or call to active duty;
 - (v) attendance at a counseling session by a non-medical counselor (e.g., clergy member) arising from the active duty or call to active duty (includes counseling for the covered military member, employee, or child);
 - (vi) rest and recuperation (up to fifteen calendar days of leave permitted for each instance when the military member is on short-term, temporary rest and recuperation leave during the period of deployment);
 - (vii) post-deployment military activities (e.g., attend arrival ceremonies);
 - (viii) parental care when the parent of the military member is incapable of self-care and is the military member's biological, adoptive, step, or foster parent (e.g., temporary, but not ongoing parental care; to arrange alternative parental care; to admit or transfer the parent to a care facility when necessitated by the active duty orders); or
 - (ix) additional activities approved on a case-by-case basis by the director of human resources or designee.
- (C) An employee whose family member is on active duty or called to active duty status in support of a contingency operation as a member of the Regular Armed Forces is not eligible to take leave because of a "qualifying exigency."
- (D) A call to active duty for this purpose must be a federal call to active duty. State calls to active duty are not covered unless under order of the president of the United States in support of a contingency operation.
- (4) **Military Family Leave – Military Caregiver Leave (also known as Covered Servicemember Leave).**
- (A) An eligible employee is entitled to FMLA-covered leave to care for a current member of the Armed Forces (including the National Guard or Reserves), a member who is on the temporary disability retired list, or a covered veteran if:
- (i) the servicemember:
 - (I) has a serious injury or illness for which the servicemember is undergoing medical treatment, recuperation, or therapy; or
 - (II) is in outpatient status; and
 - (ii) the employee is the spouse, child, parent, or next of kin of the servicemember as defined by the FMLA.
- (B) A veteran is a covered veteran if the servicemember:
- (i) was a member of the Armed Forces;
 - (ii) was discharged or released under conditions other than dishonorable; and
 - (iii) was discharged within the five-year period before the eligible employee first takes FMLA-covered leave to care for the veteran.
- (C) Except as noted by subsection (E), a "serious injury or illness" means an injury or illness incurred by a covered servicemember in the line of duty while on active duty that may render

the servicemember medically unfit to perform the duties of the servicemember's office, grade, rank, or rating. This includes an injury or illness that existed before the servicemember's active duty and was aggravated by the service in the line of duty on active duty.

- (D) For covered veterans, a "serious injury or illness," regardless of whether the injury or illness manifested before or after the servicemember became a veteran, means:
- (i) a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating;
 - (ii) a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating of 50 percent or greater, and the need for military caregiver leave is related to that condition;
 - (iii) a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or
 - (iv) an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- (E) If the covered servicemember's medical condition does not fall under the requirements for military caregiver leave, the employee may still be eligible for FMLA-covered leave due to a serious health condition of a family member.

(f) **Maximum Amount of FMLA-Covered Leave.**

- (1) Except for military caregiver leave, an eligible employee's total FMLA-covered leave entitlement is limited to 12 workweeks within a rolling 12-month period. The rolling 12-month period will be measured backward from the date the employee uses any leave under the protection of the FMLA other than military caregiver leave.
- (2) Special provisions apply when both spouses are TJJJD employees. The amount of leave taken by one spouse for any of the following FMLA qualifying reasons will count against the other spouse's FMLA-covered leave entitlement:
 - (A) birth of a child and care for the child (excluding FMLA-covered leave due to a serious health condition of the mother or child);
 - (B) placement of a child with the employee for adoption or foster care, (excluding FMLA-covered leave due to a serious health condition of the child);
 - (C) care for a parent due to a serious health condition (e.g., if a wife uses eight weeks to care for her parent, the husband will only be entitled to use four weeks to care for his parent in the same rolling 12-month period; neither spouse may use FMLA-covered leave to care for a parent-in-law); and
 - (D) military caregiver leave.
- (3) An eligible part-time employee is entitled to FMLA-covered leave on a proportionate basis.
- (4) An eligible employee's military caregiver leave entitlement is limited to 26 workweeks during a single 12-month period. The single 12-month period will be measured forward from the date the employee first uses military caregiver leave.
 - (A) If an employee requires military caregiver leave to care for more than one covered servicemember or requires a combination of military caregiver leave and other FMLA-covered

leave, the employee's FMLA-covered leave entitlement is limited to a maximum combined total of 26 weeks during any single 12-month period. The limitation of 12 weeks during a rolling 12-month period for other FMLA-covered leave will still apply, even if the employee uses less than 14 weeks of military caregiver leave.

- (B) Once a single 12-month period expires, the employee is eligible for another 26 weeks of military caregiver leave during a subsequent, single 12-month period to care for a different covered servicemember or to care for the same covered servicemember if the servicemember incurs a subsequent serious injury or illness (excluding aggravation or complication of an earlier serious injury or illness for which the employee took military caregiver leave).

(g) Intermittent or Reduced Schedule Leave.

- (1) An eligible employee may take FMLA-covered leave on an intermittent or reduced schedule basis when it is:
 - (A) certified as medically necessary due to a serious health condition of the employee or the employee's spouse, child, or parent (e.g., for periodic medical treatments);
 - (B) certified as medically necessary for military caregiver leave; or
 - (C) necessary because of a "qualifying exigency," as defined in (e)(3) above.
- (2) If an employee needs to use leave on an intermittent or reduced schedule basis for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt TJJJ operations.

(h) Impact of Unpaid FMLA-Covered Leave on Employee Benefits.

- (1) An employee's benefits will be affected by unpaid FMLA-covered leave only if the employee is on unpaid FMLA-covered leave for a full calendar month (i.e., on the first day of the month through the end of the last day of the same month).
- (2) If an employee is using unpaid FMLA-covered leave for one or more full calendar months, the employee's benefits will be affected in the following ways:
 - (A) The employee will not accrue or be paid for sick leave, annual leave, holiday leave, or administrative leave.
 - (B) The employee will not earn state service credit for purposes of longevity pay or hazardous duty pay rates or annual leave accrual rates.
 - (C) If the employee has optional health insurance (i.e., spouse, children) or other optional benefits (life insurance, disability insurance, etc.), the employee's portion of the cost will no longer be deducted from the employee's pay. The Employees' Retirement System of Texas (ERS) will bill the employee for the employee's portion of the costs. If the employee does not make timely payments, the optional coverage(s) may be canceled.
 - (D) Even though the agency pays the employee's own health insurance premium during unpaid FMLA-covered leave, the employee may be required to reimburse the agency if the employee fails to return from FMLA-covered leave for a reason other than:
 - (i) the continuation, recurrence, or onset of a serious health condition that would entitle the employee to additional FMLA-covered leave; or
 - (ii) other circumstances beyond the employee's control.

(i) **Reinstatement Entitlement.**

When an employee who takes leave protected under the FMLA returns to work on or before the expiration of approved leave, the employee is entitled to be reinstated to the same job or an equivalent job with the same pay, benefits, and terms and conditions of employment. The employee may be subject to any fitness-for-duty certification requirements that apply. However, requesting or being on FMLA-covered leave does not prevent disciplinary action or other employment action that would have been taken in the absence of FMLA-covered leave, including termination or administrative separation.

(j) **Procedures.**

(1) **Notice of Intent to Use Leave.**

(A) **Employee's Responsibilities.**

- (i) When an employee can foresee the need to use leave, the employee is required to provide at least 30 days' advance notice before the leave period is to begin. If the employee is not able to provide 30 days' advance notice, the employee must provide notice as soon as practicable.
 - (I) The advance notice is to be provided in accordance with the department's or facility's call-in procedures for absences. If circumstances prevent the employee from providing personal notice, the employee's spouse, adult family member, or other responsible party may provide the notice.
 - (II) If 30 days' notice is not provided, the employee may be required to explain the reason why the employee was unable to provide such notice.
 - (III) Once a period of absence has been conditionally designated as FMLA-covered leave, the employee should conduct all communications regarding the leave through the human resources administrator. Any required documentation (e.g., medical certification, recertification, or release for return to work) should be provided to the human resources administrator. The employee must notify the human resources administrator as soon as practicable if dates of scheduled leave change, are extended, or were initially unknown.
- (ii) When providing notice of intent to use leave, the employee is not required to mention the term "FMLA."
 - (I) The employee must respond to questions from the human resources administrator in order to provide sufficient information that will allow the human resources administrator to determine whether the need for leave is due to an FMLA-qualifying reason. Failure to respond to such questions may result in denial of FMLA protection if TJJD is unable to determine that the leave is for an FMLA-qualifying reason.
 - (II) The employee must advise the human resources administrator if the employee was previously granted FMLA-covered leave for the same condition that is the reason for the current leave request.
- (iii) "As soon as practicable" means as soon as both possible and practical, considering all of the facts and circumstances in the individual case. When an employee is required to provide notice of an absence as soon as practicable, the employee should provide the notice on the same day or the next business day after the employee becomes aware of the need for leave.
- (iv) If an employee has a spouse who is also a TJJD employee and is requesting FMLA-covered leave for one of the qualifying reasons identified in paragraph (f)(2), the

employee should notify the human resources administrator that the employee's spouse is a TJJD employee.

(B) Supervisor's Responsibilities.

- (i) To help ensure the human resources administrator is aware that an employee is absent due to an FMLA-qualifying reason, a supervisor must notify the human resources administrator within one business day after learning that a supervised employee is or will be absent:
 - (I) for more than three consecutive scheduled workdays due to any medical reason, including illness or injury, whether incurred on or off the job;
 - (II) in order to obtain inpatient care in a hospital, hospice, or other residential care facility;
 - (III) due to pregnancy or prenatal care;
 - (IV) due to a chronic medical condition;
 - (V) in order to care for a family member with a serious health condition;
 - (VI) for the birth of a child or for placement of a child with the employee for adoption or foster care;
 - (VII) due to a "qualifying exigency," as defined in (e)(3) above; or
 - (VIII) for military caregiver leave.
- (ii) Supervisors are prohibited from contacting the employee's health care provider to obtain additional information. Only a human resources administrator or other Human Resources specialist may contact the employee's health care provider.

(2) Documentation Requirements.

(A) Birth, Adoption, or Foster Care.

The human resources administrator will provide an employee with a [Notice of Eligibility and Rights & Responsibilities, HR-113](#), generally within five business days after receiving facts that may result in a preliminary designation of FMLA-covered leave. The HR-113 form will indicate whether the employee is eligible for FMLA-covered leave and whether complete and sufficient certifications have been provided or must be provided by a date identified on the form.

- (i) When FMLA-covered leave is based on birth, adoption, or foster care, the employee must provide proof of the event for the birth of the employee's child or the placement of a child with the employee for adoption or foster care. For the birth of a child, a birth bracelet, hospital certificate, health care provider's statement, or birth certificate may be used as proof of the event.
- (ii) The employee must provide proof of the event no later than 15 calendar days after receipt of the HR-113 form unless the employee is granted additional time due to special circumstances.

(B) Serious Health Condition.

(See (D) below for documentation requirements for military caregiver leave.)

When FMLA-covered leave is based on a serious health condition of the employee or the employee's family member, the employee is required to provide a certification of medical need for leave from a health care provider. The employee must provide the certification no later than 15 calendar days after receipt of the HR-113 unless the employee is granted additional time due to special circumstances.

- (i) The certification must contain:
 - (I) the name, address, telephone number, and fax number of the health care provider and the type of practice or specialization of the health care provider;
 - (II) a statement that either the employee is unable to perform the duties of the employee's position due to a serious health condition or that the employee is needed to care for a family member with a serious health condition;
 - (III) the date on which the serious health condition began and the probable duration of the condition; and
 - (IV) a statement or description of appropriate medical facts regarding the patient's condition for which FMLA-covered leave is to be used (e.g., symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment, other regimen of continuing treatment).
- (ii) An employee may have the health care provider complete the [Health Care Provider's Certification of Employee's Serious Health Condition, HR-040e](#), or the [Health Care Provider's Certification of Family Member's Serious Health Condition, HR-040f](#), whichever applies, to meet the certification requirement.
- (iii) A new medical certification (a recertification) is required:
 - (I) upon any significant change in the circumstances described in the initial or previous medical certification (e.g., an extension of the projected return to work date; a significant change in the severity of the condition, applicable work restrictions, diagnosis);
 - (II) upon expiration of the minimum period of incapacitation indicated on the most recent certification (unless the employee is released for return to work at or before the minimum period of incapacitation indicated on the medical certification);
 - (III) within 30 days of the date of a previous medical certification that did not indicate a minimum period of incapacitation (unless the employee is released to return to work at or before the end of 30 days); and
 - (IV) every six months (for long-term or chronic serious health conditions that result in a continuing or periodic need for FMLA-covered leave, even if the minimum period of incapacitation in the previous medical certification is longer than six months).

(C) Military Family Leave – Qualifying Exigency.

When FMLA-covered leave is due to a “qualifying exigency,” the employee must provide a completed [Certification of Qualifying Exigency for Military Family Leave, HR-111](#), to the human resources administrator. The first time the employee requests such leave, the employee must also provide the human resources administrator written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

- (i) The employee must provide these documents no later than 15 calendar days after receipt of the [HR-113 form](#) unless the employee is granted additional time due to special circumstances.
- (ii) The employee will only be required to provide the written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation the first time the employee requests leave for this purpose.
- (iii) The employee will be required to provide a completed [HR-111 form](#) whenever the leave is due to a reason unrelated to a previous qualifying exigency (e.g., the first request was for short-notice deployment, and the second request is one year later for rest and recuperation).

(D) Military Family Leave - Military Caregiver Leave.

When FMLA-covered leave is to care for a covered servicemember with a serious injury or illness incurred in the line of duty, the employee must provide a completed [Certification for Military Caregiver Leave, HR-112](#), to the human resources administrator. The employee must provide the HR-112 form no later than 15 calendar days after receipt of the HR-113 form unless the employee is granted additional time due to special circumstances. Recertification is not required for military caregiver leave.

(E) Failure to Provide Certification or Recertification.

Completed certification and recertification forms must be submitted to the Human Resources office for approval. If a required certification or recertification is not provided by the due date, or if a submitted certification or recertification does not support the need for leave, any time missed will be:

- (i) deducted from any available leave balances; and
- (ii) counted as unauthorized absence, subjecting the employee to disciplinary action up to and including termination of employment.

(F) Incomplete or Insufficient Certifications.

All required certifications must be complete and sufficient. A certification is considered to be insufficient if it is vague, ambiguous, or non-responsive.

- (i) If any required certification (including, but not limited to, any required medical certification, recertification, or fitness-for-duty certification upon release for return to work) is incomplete or insufficient, the human resources administrator will provide the employee written notice (either in the [Family and Medical Leave Designation Notice, HR-113a](#), or via other written notice) of what type of additional information is needed to make the certification complete and sufficient.
 - (I) Upon receipt of the written notice indicating that the certification provided was incomplete or insufficient, it is the employee's responsibility to either:
 - (-a-) provide a new certification that is complete and sufficient; or
 - (-b-) furnish the health care provider any necessary authorization from the employee or the employee's family member in order for the health care provider to release a complete and sufficient certification to TJJ.D.
 - (II) Upon receipt of written notice that a certification is incomplete or insufficient, the employee will have seven calendar days to submit or have the health care provider submit the requested additional information (unless not practical to do so under the circumstances despite the employee's diligent, good faith efforts, in which case the employee must submit the requested additional information or

authorize the health care provider to provide the information as soon as practicable).

- (ii) The provision regarding a seven-calendar-day period to resubmit complete or sufficient certification does not apply when the employee has failed to submit a required certification. It applies only when the certification submitted is incomplete or insufficient.

(G) Second and Third Opinions.

- (i) TJJJ may require employees to obtain a second medical opinion, at TJJJ's expense, in accordance with the FMLA when the validity of a certification is reasonably doubted. TJJJ may select the health care provider to provide a second opinion, as long as:
 - (I) the provider is not employed by TJJJ on a regular basis; and
 - (II) TJJJ does not regularly contract with or otherwise regularly use the provider for second opinions unless the employee's work location is in an area where access to health care is extremely limited in accordance with the FMLA.
- (ii) If the initial certification and the second opinion differ, TJJJ may require the employee to obtain certification from a third health care provider, at TJJJ's expense. TJJJ and the employee must act in good faith to designate or jointly agree upon the health care provider to provide the third opinion. The third opinion is final and binding.
- (iii) TJJJ may deny the taking of FMLA-covered leave if:
 - (I) the health care provider selected to provide a second or third opinion requests relevant medical information pertaining to the serious health condition at issue; and
 - (II) the employee or the employee's family member does not authorize the release of the information.
- (iv) The employee is entitled to copies of the second and third medical opinions within five business days after requesting such copies unless extenuating circumstances prevent such action.
- (v) The employee is entitled to reimbursement in accordance with [TRV.03.07](#) for any reasonable out-of-pocket travel expenses incurred to obtain the second and third medical opinions. The employee may not be required to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(3) Use of Paid Leave Benefits in Connection with FMLA-Covered Leave.

Except as provided in [PRS.28.02](#) for an employee receiving lost-time benefits through disability insurance or workers' compensation insurance, an employee must use available paid leave balances while taking FMLA-covered leave. PRS.28.02 allows the employee to choose the order in which available paid leave balances are used, with certain restrictions. In addition, PRS.28.02 establishes the order of use if the employee does not select the order. If some form of paid leave is not available for use in conjunction with FMLA-covered leave, the FMLA-covered leave will be unpaid leave.

(4) Return to Work.

(A) Employee's Responsibilities.

- (i) While on leave, the employee is required to promptly notify the human resources administrator in writing if the employee does not intend to return to work as scheduled.

- (ii) If the circumstances of the employee's leave change and the employee is able to return to work earlier than the scheduled return date, the employee will be required to notify the human resources administrator before the date the employee intends to report for work.
- (iii) If FMLA-covered leave is due to an employee's own serious health condition, the employee must present a fitness-for-duty certification to the human resources administrator before being allowed to return to work. The employee may not return to work until the human resources administrator provides the employee's supervisor with written notification (e.g., email) that the employee may return to work.

(B) Supervisor's Responsibilities.

- (i) The supervisor must not allow an employee who has been on FMLA-covered leave due to the employee's own serious health condition to return to work unless the supervisor has received written notification (e.g., email) from the human resources administrator or designee that the employee may return to work.
 - (ii) Upon an employee's return to work from FMLA-covered leave for a reason other than the employee's own serious health condition, the supervisor must provide the human resources administrator or schedule administrator verbal or written notice of the employee's return to work on the same calendar day or shift that the employee returns to work.
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