DEPARTMENT OF CORRECTIONS

Policy Number:	**103.270**
Title:	**Family and Medical Leave Act**
Effective Date:	**7/16/19**

PURPOSE: To provide guidance on how the Minnesota Department of Corrections (DOC) administers the provisions of the Federal Family and Medical Leave Act (FMLA), and the State of Minnesota, Minnesota Management and Budget (MMB) FMLA policy with additions.

APPLICABILITY: All employees

DEFINITIONS:
FMLA response letter – FMLA approval notification along with the Designation Notice from the Human Resource (HR) office including such examples as: for whom (self, spouse, child, or parent) or birth/adoption; frequency and duration and whether a Report of Workability/Fitness for Duty Certification is required.

PROCEDURES:

A. The agency follows Minnesota Management and Budget (MMB) Human Resources/Labor Relations Policy #1409, "Family and Medical Leave Act (FLMA)" with agency additions specified in these procedures.

B. Employees must comply with the agency's normal call-in procedures as outlined in DOC Policy 103.035, "Tardiness and Failure to Report to Work" for FMLA-qualified absences.

C. Employees must submit a completed Certification of Health Care Provider form to Human Resources (HR) within fifteen (15) calendar days from the receipt of the Notice of Eligibility and Rights & Responsibilities notice or they may not receive the protections of FMLA (MMB HR/LR Policy #1409, Section IV. C).

D. If HR staff find the submitted Certification of Health Care Provider form is incomplete or insufficient, they will return the form to the employee to obtain additional information. The employee has seven calendar days to provide complete and sufficient documentation and return it to HR. Employees must meet this deadline or they may not receive the protections of the FMLA (MMB HR/LR Policy #1409, Section III. B. 3).

E. Certifications and re-certifications that are complete and sufficient may be subject to authentication and clarification. Initial and annual certifications are subject to second and third medical opinions as set forth in the FMLA (MMB HR/LR Policy #1409, Section III. B. 3).

F. An employee returning from FMLA leave for the employee's own serious health condition must submit a Report of Workability/Fitness for Duty Certification completed by the employee's health care provider who treated the particular condition for which the employee needed the FMLA leave to HRM prior to return to work. Failure to submit the completed Report of Workability/Fitness for Duty Certification may result in a delay or denial of job reinstatement (MMB HR/LR Policy #1409, Section III. B. 5).

G. An employee approved for and utilizing intermittent FMLA leave must recertify a minimum of every six months, in conjunction with a related absence. Re-certifications may be requested in less than six month increments, based on provisions of the Act (MMB HR/LR Policy #1409, Section III. B).

H. Designating Leave and Required Notices (see MMB HR/LR Policy #1409, Section III. C).

1. HR staff send the Designation Notice to notify the employee, the employee's supervisor, and payroll when an FMLA leave is approved or denied. If approved, the notice will include the FMLA response letter.

2. Once the FMLA response letter is issued, the employee and supervisor must review prior period absences to determine if they were correctly recorded on the time record(s). If time record amendments are required, see Policy 104.450, "Payroll, Leave, and Overtime Requests."

3. While on an approved FMLA leave, the employee cannot participate in activities that would cast doubt on the validity or need for the FMLA leave. An employee determined to be misusing or abusing FMLA leave is subject to lose the employee's job restoration rights under the Act and/or disciplinary action, up to and including discharge.

4. Employees must accurately record all FMLA absences using the appropriate FMLA earn codes on their time records and the supervisors must verify them for accuracy in accordance with existing FMLA policies/procedures. The most common FMLA earn codes used include the following (additional codes are available; please consult with HR for determination):
   a) FMS, Family Medical Leave – Sick Leave
   b) FMV, Family Medical Leave – Vacation Leave
   c) FML, Family Medical Leave – No Pay
   d) FMC, Family Medical Leave – Compensatory time

5. Employees must notify HR of any needed changes in the FMLA response letter. Employees must notify HR in writing if they will be on FMLA unpaid status for at least one full pay period or longer.

6. Employees' failure to notify their supervisors and Watch Commanders (if security personnel) of the need for an extension of their approved leave and/or that they have submitted new FMLA paperwork to HR may be considered job abandonment and deemed a voluntary resignation of employment.

I. Employee leave requests/responses, Certification of Health Care Provider forms and Report of Workability/Fitness for Duty forms are maintained in HR in the employee's medical file.

INTERNAL CONTROLS:

A. Employee leave requests/responses, Certification of Health Care Provider forms and Report of Workability/Fitness for Duty forms are retained in HR in the employee's medical file.

ACA STANDARDS: None

REFERENCES: MMB Policy #1409, "Family and Medical Leave Act (FMLA)"
Collective bargaining agreements

Department of Labor Federal Register, 29 CFR, part 825. *The Family and Medical Leave Act of 1993.*
Federal Family and Medical Leave Act of 1993/2008
U.S. Department of Labor FMLA Overview
U.S. Government Publishing Office (GPO) Electronic Code of Federal Regulations (Title 29, Subtitle B, Chapter V, Subchapter C, Part 825)
Statewide Policy on FMLA-MMB HR/LR Policy #1409, Family Medical Leave Act
MMB FMLA General Memo #2014-6, "FMLA Guidance"
Policy 103.280, "Sick Leave Management"
Policy 103.240, "Return to Work Process"
Policy 104.450, "Payroll, Leave, and Overtime Requests"
Policy 103.241, "Workers' Compensation"

REPLACES: Policy 103.270, "Family and Medical Leave," 6/20/17
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: None

APPROVED BY:
Deputy Commissioner, Community Services
Deputy Commissioner, Facility Services
Assistant Commissioner, Operations Support
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