



**King County**

## **Protected Leave Information for King County Employees**

### **Notice of FMLA/KCFML rights and obligations**

King County complies with federal and state leave provisions as well as any changes to these laws as may occur through administrative interpretation, legislative enactment and controlling court decisions. Unless otherwise indicated, the information provided below is subject to such changes in the law and will be interpreted consistent with any such changes.

#### **FMLA/KCFML designation**

Once leave is designated as FMLA/WFLA or KCFML, it may count against your FMLA/WFLA or KCFML leave entitlements. You are required to present a completed medical certification to substantiate your leave request. Failure to provide certification may result in denial of your FMLA/WFLA and KCFML entitlements and loss of protection benefits.

#### **Workers' compensation**

Leave due to conditions covered by workers' compensation may also qualify as FMLA leave. If you are eligible to receive workers' compensation time-loss benefits while on FMLA, you must elect at the beginning of your FMLA leave whether to supplement these benefits with accrued sick leave and other paid accruals (vacation/benefit time/comp time). Your election must be in writing and must state the order in which you will apply your paid accruals after your sick leave is exhausted. Once made, your designation is final and cannot be changed. King County policy does not allow employees to stop and start paid leave for purposes of ensuring benefit coverage.

Your KCFML begins when you enter an unpaid status or begin to use donated leave. If you are receiving time-loss payments under workers' compensation and choose not to supplement your time-loss with sick leave and other paid accruals, you will be considered in an unpaid status and your KCFML will begin.

#### **Job protection and benefits**

- Under federal and state leave laws, you may be restored to your original or equivalent position with equivalent pay, benefits, seniority and other employment terms upon return from protected leave; you do not lose any employment benefits that accrued before the start of your leave, and no adverse personnel actions may be taken against you for taking protected leave.
- These protections do not apply if your job is eliminated due to a *bona fide* workforce reduction or if you do not return to work by the expiration date of your leave. Failure to return by the expiration date may be cause for removal and may result in termination of your employment.
- When a leave converts to KCFML (concurrent with unpaid leave or use of donated hours), your benefit coverage continues. However, once you enter an unpaid status (and are not receiving donated leave), you will be responsible for all basic and supplemental life, accidental death and dismemberment (AD&D) and/or long-term disability (LTD) insurance premiums. Contact Benefits, Payroll and Retirement Operations at 206-684-1556 to learn more about this opportunity to continue coverage.
- PCPRC leave does not provide continuation of county-paid health and insurance benefits unless the employee elects to use paid leave accruals or elects to begin concurrent use of FMLA/WFLA or KCFML entitlements.

#### **Returning from leave**

Upon returning from your leave, you may be required to provide a written medical release if the leave was taken due to your own serious health condition. Employees have a right to restoration to their own or equivalent position upon their return from FMLA/KCFML. If you do not return to work following your leave, you may be liable for the employer's share of health care insurance premiums [29 CFR 825.301 (B)(1)].

#### **Advance notice and medical certification**

- For FMLA or KCFML, you must submit your leave request 30 calendar days before your leave begins (if the leave is foreseeable) or as soon as possible (if the leave is unforeseeable).
- To support a leave request, you must provide medical certification within 15 days of your first absence; King County may require second and third opinions at county expense if it deems them necessary.
- Chronic conditions require at least two visits per year to your health care provider to continue access to FMLA/WFLA entitlements. Recertification may be requested every six months.
- You must give the physician/health care provider a copy of your job description when requesting medical certification; your department contact can provide you with a copy of your job description.
- Steps for completing an incomplete medical certification:
  - Incomplete or insufficient medical certifications (i.e., vague, ambiguous, non-responsive) must be returned to the employee with written instructions explaining the necessary information required for a complete certification. The employee has seven days to correct the incomplete or insufficient areas.
  - King County may thereafter contact the health care provider to clarify or authenticate the medical certification. The employee's direct supervisor may never communicate with the employee's health care provider.

- King County policy provides that only disability service representatives may communicate with an employee's health care provider.
- If your leave is due to your own serious health condition, you must submit a new medical certification before the prior certification expires or when requested by your department contact if you extend your leave.
- You must provide documentation (i.e., birth certificate, handwritten note from employee, etc.) to certify a leave of absence for the purpose of bonding with a newborn, adopted child or foster child.
- A release to full, partial or transitional duty is required before you return to work after your own serious health condition. If a release is not received, your return to work may be delayed.
- Anything other than a release to full duty must be reviewed and approved by your supervisor and/or department human resources contact or designee before you report back to work.
- If you need disability accommodation services to return to work or perform your job, you must notify your department contact and contact the King County Disability Services Office at 206-296-4997 (206-263-6026 or 206-236-3537 for Transit Division employees).

#### Use of paid and donated leave

- You must use all your sick leave for your own serious health condition unless the condition is due to an on-the-job injury; after you exhaust your sick leave, you may use vacation and other paid leave if approved. For use of other leave accruals, contact your department contact for information about its use.
- To care for an eligible family member with a serious health condition, you may use paid leave (sick, vacation, etc.) or unpaid leave. If you use sick leave, you may reserve up to 80 hours of this leave before you begin your paid leave, and when you have used all your sick leave except the reserved (up to 80) hours, you will begin using other leave (if approved) or go on unpaid status.
- Donated leave runs concurrently with KCFML and is not treated as paid leave because it is not *earned* leave. Therefore, you may be receiving pay, but you are not considered to be in a paid status when you are paid through donations.
- You must use all your own sick leave before using donated sick leave. You must use all your own vacation leave before using donated vacation leave.

#### For additional information

- Contact your department human resources office.
- Contact Benefits, Payroll and Retirement Operations at 206-684-1556 or [kc.benefits@kingcounty.gov](mailto:kc.benefits@kingcounty.gov).
- Federal Family and Medical Leave Act (FMLA) information can be found at <http://www.dol.gov/whd/fmla/index.htm>.
- Washington Family Leave Act (WFLA) information can be found at <http://apps.leg.wa.gov/RCW/default.aspx?cite=49.78>.
- Washington Family Care Act (WFCA) information can be found at <http://apps.leg.wa.gov/WAC/default.aspx?cite=296-130>.
- Pregnancy, Childbirth and Pregnancy Related Condition information can be found at <http://apps.leg.wa.gov/WAC/default.aspx?cite=162-30-020>.
- Contact the Washington State Department of Labor and Industries at 1-800-547-8367 or <http://www.lni.wa.gov>.