



Standard Operating Procedures (SOP) Administration

Page #	1 of 6	Date Last Reviewed/Updated	10/8/2015
Title of SOP Author	HR Manager	Date of E.D. Approval	10/14/15

	Family And Medical Leave Act (FMLA) Procedures
Purpose	YVEDDI will grant a leave of absence to eligible employees under the Family and Medical Leave Act as administered by the US Department of Labor. These procedures provide clarification on what protection is provided by the FMLA, when the FMLA applies and how to request FMLA.
References	YVEDDI Human Resource Policy Manual – page 40
Scope	Employees who have worked for YVEDDI for a total of 12 months of more and have worked at least 1,250 hours over the previous 12 months.
Definitions	<p>Parent – a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents “in law”.</p> <p>Son or Daughter – a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA is to commence.</p> <p>In Loco Parentis – a person with day-to-day responsibilities to care for and financially support a child. Employees who have no biological or legal relationship with a child may nonetheless stand in loco parentis to the child and be entitled to receive FMLA leave.</p>
Procedure	<p>If you are an eligible employee, you may take up to 12 weeks of FMLA leave in any 12-month period for a variety of reasons including:</p> <p>Serious Health Condition</p> <p>FMLA leave may be taken to care for a spouse, child or parent who has a serious health condition or when the employee has a serious health condition.</p> <p>The most common serious health conditions that qualify for FMLA leave are:</p> <ul style="list-style-type: none"> • Conditions requiring an overnight stay in a hospital or other medical care facility; • Conditions that incapacitate the employee or the employee’s family member for more than 3 consecutive days and have ongoing medical treatment <ul style="list-style-type: none"> ○ This could be multiple appointments with a health care provider or a single appointment and follow-up care such as prescription medication



Standard Operating Procedures (SOP) Administration

Page #	2 of 6	Date Last Reviewed/Updated	10/8/2015
Title of SOP Author	HR Manager	Date of E.D. Approval	10/14/15

- Chronic conditions that cause occasional periods when the employee or the employee's family member are incapacitated and require treatment by a health care provider at least twice a year; and
- Pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

Military Family Leave

- FMLA provides certain military family leave entitlements
- An employee may take FMLA leave for specified reasons related to certain military deployments.
- An employee may also take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered service member with a serious injury.

Expanding Family

- An employee may take FMLA leave for the birth of a child and to bond with the newborn child, or for the placement of a child for adoption or foster care and to bond with that child.
- Men and women have the same right to take FMLA leave to bond with their child but it must be taken within one year of the child's birth or placement.
- FMLA leave for the birth or placement of a child must be taken as a continuous block of leave unless the employer agrees to all intermittent leave (for example, a part-time schedule).
- If both the mother and father work for YVEDDI they are eligible to take a combined 12 weeks of FMLA leave for bonding.

BENEFITS OF FMLA

- FMLA leave provides up to 12 weeks of job-protected time off to deal with serious health issues.
- YVEDDI must continue health insurance coverage, however the **employee will be required to continue to make normal employee contribution payments.**
- Employees who return to work prior to exhausting FMLA leave must be returned to the same job (or one nearly identical to it).
- Time off under the FMLA will not be held against the employee in employment actions such as hiring, promotions or discipline.

FMLA leave is unpaid leave, however **employees will be required to use any accrued leave (sick, vacation, etc.) while using FMLA leave.**

HOW FMLA LEAVE CAN BE TAKEN

- FMLA leave can be taken as a single block of time (up to 12 weeks)



Standard Operating Procedures (SOP) Administration

Page #	3 of 6	Date Last Reviewed/Updated	10/8/2015
Title of SOP Author	HR Manager	Date of E.D. Approval	10/14/15

- It can be taken in multiple, smaller blocks of time if medically necessary
 - For example, occasional absences due to a chronic medical condition
- FMLA leave can be taken on a part-time basis if medically necessary.
 - For example, if after a surgery the employee needs to return to work for 4 hours a day or 3 days a week for a period of time.
 - If the employee needs multiple periods of leave for planned medical treatment, the employee must try to schedule the treatment at a time that minimizes the disruption to YVEDDI.

REQUESTING FMLA LEAVE

To take FMLA leave, an employee must provide appropriate notice.

- An employee must notify YVEDDI at least 30 days in advance when medical treatment is planned (such as a planned surgery or a pregnancy)
- If unable to give 30 days' notice, the employee must notify YVEDDI of the need for leave as soon as the employee is made aware of the need.
- When FMLA leave is needed unexpectedly, the employee must inform YVEDDI as soon as possible and must follow YVEDDI's usual call-in procedures for being absent.

Though the employee does not have to specifically ask for FMLA leave, the employee must provide enough information with the request for leave that YVEDDI can determine if the leave is covered by the FMLA.

- Once FMLA leave has been approved for a specific condition which requires subsequent treatment, all requests for leave for that treatment must mention either FMLA or that condition
- It is not necessary for the employee to provide information regarding the diagnosis, however the employee must indicate that the requested leave is due to an FMLA covered condition
 - For example stating that the doctor has taken the employee out of work for 4 days.

REQUIRED COMMUNICATION

- The employee must inform YVEDDI if the need for FMLA leave changes
- Employee must provide periodic updates on their status and intent to return to work.
- The employee must give their supervisor reasonable notice (i.e. within two business days) of their ability to return to work.
- YVEDDI must notify the employee if they are eligible for FMLA leave within 5 business days of their first request for leave. This notice will include the following:
 - If the employee is not eligible for FMLA leave, YVEDDI will state at least one reason why
 - If the employee is eligible for FMLA leave, YVEDDI will include a notice of the employee's rights and responsibilities



Standard Operating Procedures (SOP) Administration

Page #	4 of 6	Date Last Reviewed/Updated	10/8/2015
Title of SOP Author	HR Manager	Date of E.D. Approval	10/14/15

- YVEDDI has designated a 12-month rolling period which will be measured backward from the date when the FMLA leave starts and this time period will be included on the eligibility notice.
- The employee will be required to provide medical certification from a health care provider
- **YVEDDI will require the employee to use accrued leave while on FMLA and submit bi-weekly timesheets reflecting use of leave.**
- The employee has the right to maintain health benefits while on FMLA leave, however they will be required to continue to pay the employee's share of the total health care premium.
 - If the employee fails to pay their share of the premium, YVEDDI will provide written notice stating that coverage will be canceled unless the premium is paid by a specific date.
 - Upon reinstatement, the employee will be restored to coverage under all employee benefit plans in which they were participating in the last regular job held.
 - Cancellation for nonpayment of premiums during FMLA leave does not affect restoration of benefits, but will result in nonpayment of claims incurred during the time that the required employee contributions were not paid.
- The employee has the right to return to their job or a similar one after the end of FMLA leave.
- Once YVEDDI has the information necessary to determine if the leave is FMLA protected, the employee will be notified whether the requested leave will be designated as FMLA leave and if possible how much leave will be counted.
- IF YVEDDI determines that the leave requested is not covered by FMLA, the employee will be notified of that decision.

Commented [KP1]: Need to make sure we do this

FMLA LEAVE PROCESS

Medical Certification

- The employee has only 15 calendar days to provide the requested medical certification.
- The employee is responsible for the cost of getting the certification from a health care provider and for making sure that the certification is provided to YVEDDI. Failure to provide the requested medical certification may result in the FMLA leave being denied.
- The medical certification must include:
 - Contact information for the health care provider
 - When the serious health condition began;
 - How long the condition is expected to last;
 - Appropriate medical facts about the condition (which may include information on symptoms, hospitalization, doctors' visits, and referrals for treatment);
 - Whether the employee is unable to work or if the employee's family member is in need of care;



Standard Operating Procedures (SOP) Administration

Page #	5 of 6	Date Last Reviewed/Updated	10/8/2015
Title of SOP Author	HR Manager	Date of E.D. Approval	10/14/15

	<ul style="list-style-type: none"> ○ Whether the leave will be continuous or intermittent. If leave is needed a little bit at a time, the certification should include an estimate of how much time will be needed for each absence, how often absences will occur and information establishing the medical necessity for taking such intermittent leave. • If YVEDDI finds that necessary information is missing from the certification, the employee will be notified in writing of what additional information is needed. The employee has 7 calendar days to provide the missing information. • If YVEDDI has concerns about the validity of the medical certification, a second opinion may be requested at the cost of YVEDDI. • If the second opinion differs from the first, YVEDDI may request a third opinion, but must cover the cost. • YVEDDI may require an updated medical certification if the leave continues for longer than initially stated, the employee requests an extension of leave, or if circumstances described by the previous certification have changed significantly. • If the agency receives word that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification, YVEDDI may require an updated medical certification. <p>Returning to Work</p> <ul style="list-style-type: none"> • If an employee is capable of performing all essential functions of their last regular job, YVEDDI will return the employee to their last regular job or a position equivalent to it. • If the employee is not returned to the exact same job, the new position must: <ul style="list-style-type: none"> ○ Involve the same or substantially similar duties, responsibilities, and status; ○ Include the same general level of skill, effort, responsibility and authority; ○ Offer identical pay, including equivalent premium pay, overtime and bonus opportunities; ○ Offer identical benefits (such as life insurance, health insurance, sick leave, vacation, pensions, etc.); and ○ Offer the same general work schedule, and be at the same (or nearby) location. • Refusing an offer of reinstatement to a similar position will be treated as a voluntary resignation. • If the employee exhausts the FMLA leave entitlement and is unable to return to work, YVEDDI is not required to restore the position. • If an employee is unable to perform the essential functions of their last regular position at the end of the FMLA leave due to a disability, as defined by the Americans with Disabilities Act, YVEDDI will investigate reasonable accommodations. • An employee who fraudulently obtains FMLA leave is not protected by FMLA's job restoration or maintenance of health benefits provisions. • If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employee's rights to job restoration as
--	--



Standard Operating Procedures (SOP) Administration

Page #	6 of 6	Date Last Reviewed/Updated	10/8/2015
Title of SOP Author	HR Manager	Date of E.D. Approval	10/14/15

dictated by FMLA regulation will cease upon the effective date of layoff.
The employee may apply for other vacant positions.

YVEDDI seeks to follow all laws, rules and regulations regarding the Family and Medical Leave Act. However, if an employee believes their rights have been violated, they should contact the Department of Labor.

- The U.S. Department of Labor's Wage & Hour Division (WHD) is responsible for administering and enforcing the Family and Medical Leave Act for most employees and the WHD can be reached at 1-866-487-9243.
- YVEDDI will not retaliate against any employee for filing a complaint, cooperating with the WHD or bringing a private action to court.