

# Leave Administration Tool | Intermittent FMLA for Represented FLSA-Exempt Employees



Department of Human Resources (DHR), Leave Administration Team (LAT)

## INTERMITTENT FMLA/KCFML FOR FLSA-EXEMPT EMPLOYEES

Current King County policy<sup>1</sup> allows agencies to convert salaried FLSA-exempt<sup>2</sup> (salaried) employees to hourly for the duration of an approved intermittent leave of absence under the federal Family and Medical Leave Act (FMLA) and/or King County's Family Medical Leave (KCFML). While in hourly status, the employee is required to track and report the employee's time, and to make deductions from the employee's leave accrual balances or enter leave without pay time for all absences. Additionally, while in hourly status the employee is eligible for overtime pay. Employees then revert back to their salaried FLSA-exempt status at the conclusion of their approved intermittent FMLA/KCFML leave.

King County has signed memorandums of agreement with all labor organizations (excluding Superior Court) to change the way that intermittent FMLA/KCFML leave is recorded for represented FLSA-exempt employees. Represented FLSA-exempt employees will remain FLSA-exempt while on intermittent FMLA and/or KCFML, but are required to deduct all full and partial day FMLA/KCFML-related leave from their FMLA/KCFML entitlement and from their paid leave accruals (or take unpaid leave if the employee has no paid leave accruals).

Consistent with State and federal law, and pursuant to the principles of public accountability, an FLSA-exempt employee's pay may be reduced or the employee may be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by the employee because permission for its use has not been sought or has been sought and denied, accrued leave has been exhausted, or the employee chooses to use leave without pay.<sup>3</sup>



**Pro Tip:** The policy addresses only approved intermittent FMLA and KCFML leaves of absence. The policy does not impact other partial day leaves (i.e., WFCA, PPL, PCPRC) or usage of accruals that are not related to approved FMLA/KCFML.

## KEY POINTS

- Represented FLSA-exempt (salaried) employees on intermittent FMLA/KCFML are not converted to FLSA non-exempt (hourly) status.
- Represented FLSA-exempt employees on intermittent partial day leave for approved FMLA/KCFML must enter the number of both FMLA/KCFML and regular hours worked on the timesheet to be paid for the full day.
- This policy only applies to represented FLSA-exempt employees with an approved intermittent FMLA or KCFML leave.
- If represented employees do not have enough accrued leave hours to cover the approved FMLA/KCFML absence that associated time will be unpaid.

## INTERMITTENT FMLA/KCFML PROCEDURE FOR REPRESENTED EMPLOYEES

Agencies do not convert an FLSA-exempt (salaried) represented employee to a FLSA non-exempt (hourly) position. Supervisors, employees, human resource and timekeeping professional staff must be aware of an employee's approved FMLA/KCFML protected leave.

\*Excluding represented employees in Superior Court

<sup>1</sup> DHR Salaried Employees and Intermittent/Partial-Day Leave (February 2017), <https://kingcounty.gov/~media/audience/employees/policies-forms/hr-policies/SalariedEmployeesIntermittent-PartialLeaveFebruary2017.aspx?la=en>

<sup>2</sup> Federal Fair Labor Standards Act (FLSA)

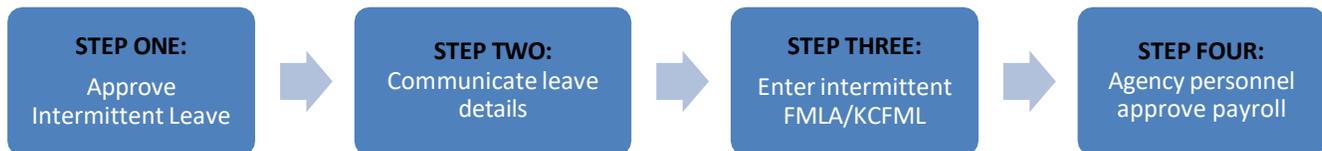
<sup>3</sup> 29 C.F.R. 825.206 FMLA Law

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Intermittent leave is defined as leave that is taken in separate blocks of time due to a single qualifying reason and may include FMLA/KCFML full-day absences or partial day absences. When an FLSA-exempt employee has been approved for intermittent leave their timesheet must reflect the full or partial day absence. Here are the steps involved:



## Step One: Intermittent Leave is Approved

Agency human resource personnel are responsible for working with employees who have requested intermittent FMLA/KCFML leave. To be eligible for intermittent leave the approved medical certification form must show medical necessity and that such leave can be best accommodated through an intermittent schedule. This part of the process has not changed.



**Pro Tip:** Approval of intermittent leave to bond with healthy children (birth, adoption, foster-to-adopt) is at the discretion of the agency. Agencies should be consistent in their approach.<sup>4</sup>

## Step Two: Communicate Leave Details

The leave administration process is de-centralized in King County which means that agencies have different methods for entering payroll/timekeeping information. Some agencies use timekeeping professionals to enter time, some have exception-based<sup>5</sup> reporting and some have employees enter their own time on the timesheet. For ease of use, the below information should be provided to whoever is responsible for entering and/or approving payroll information. In general, agency human resource personnel are responsible for providing the attached template letter instructing employees/timekeeping/supervisors on how to code intermittent hours.

There is important information that should be shared with the employee, timekeeping and the supervisor. These things include the below items. See a sample communication in the resource section.

- Order of leave accruals
- Frequency and duration of intermittent leave (included expected patterns of leave)
- Retention of FLSA-exempt status



**Pro Tip:** Communication should NOT include any personal health information (i.e., diagnosis, condition, medication, name of healthcare provider, etc.).

## Step Three: Entering Intermittent FMLA/KCFML

King County agencies have slightly different methods for recording time. Some agencies require timekeeping staff or employees to enter their own time while some FLSA-exempt employees will have their time automatically entered in the payroll system (called exception-based reporting).

The process to enter intermittent FMLA/KCFML time for FLSA-exempt employees is the same regardless of how agencies enter employee time. Someone at the agency (timekeeper, employee, etc.) will need to manually enter

<sup>4</sup> Only applies to leave for healthy children. If the leave is due to an approved serious health condition then intermittent leave cannot be denied by the Employer.

<sup>5</sup> Exception based reporting refers to FLSA-exempt employees who only enter time when they are not working their normally scheduled hours. The system automatically pays them their scheduled daily hours unless alternative information is inserted (i.e., sick, vacation, executive leave).

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the intermittent FMLA/KCFML onto the timesheet.

**Key Points:**

- Intermittent FMLA/KCFML for less than a full-day absence must be recorded using appropriate FMLA/KCFML time reporting codes (TRC).
- To receive pay for the full day, time reporting codes and corresponding hours must be entered to account for the full scheduled daily hours of the employee.
- It is VERY important for agencies to manage their employees’ time correctly. Frequent requests for manual checks could increase the rates paid by the agency.
- Exception-based reporting means that FLSA-exempt employees automatically receives pay up to their scheduled daily hours without having to manually enter time each day/week/pay period. If exception-based employees do not manually enter their “exception” into the system then they will be paid for their regularly scheduled hours and FMLA/KCFML will not be tracked.
- When no paid accruals are available the agency should still enter unpaid FMLA/KCFML time reporting codes into the payroll system of record to enable the agency to track FMLA/KCFML usage.

**Scenario #1 – Exception Based:** George Herman Ruth is in an FLSA-exempt position scheduled to work 8 hours a day and 40 standard hours a week. He is set up in the payroll system as exception-based and has recently been approved to take intermittent FMLA/KCFML for a two-hour appointment every Thursday. He currently has 400 hours of sick leave accruals.

### Timesheet

**George Ruth**  
Project/Program Manager IV

Actions ▾

Select Another Timesheet

\*View By Week ▾ Previous Week Next Week

\*Date 03/23/2019 BT ↻

Scheduled Hours 40.000      Reported Hours 0.000      Proration of Labor Costin

From Saturday 03/23/2019 to Friday 03/29/2019 ?

	Sat 3/23	Sun 3/24	Mon 3/25	Tue 3/26	Wed 3/27	Thu 3/28	Fri 3/29	Total	Time Reporting Code
<span>+</span> <span>-</span>						2.000			FMLA-KCFML Sick Leave - 315 ▾
<span>+</span> <span>-</span>						6.000			Regular Earnings - 005 ▾

Submit

Employee ID

Empl Record 0

Earliest Change Date 03/23/2019

**Scenario #2 – Manual Entry:** Roberto Clemente is an FLSA-exempt position scheduled to work 8 hours a day and 40 standard hours a week. He is set up in the payroll system to enter his own time on the timesheet and has recently been approved to take intermittent FMLA/KCFML each Wednesday (8 hours). He currently has 350 hours of sick leave accruals.

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### Timesheet

**Roberto Clemente** Employee ID  
 Project/Program Manager IV Empl Record 0  
 Actions Earliest Change Date 03/23/2019

**Select Another Timesheet**

\*View By Week Previous Week Next Week  
 \*Date 03/23/2019 31 ↻

Scheduled Hours 40.000 Reported Hours 0.000 Proration of Labor Costin

**From Saturday 03/23/2019 to Friday 03/29/2019** ?

		Sat 3/23	Sun 3/24	Mon 3/25	Tue 3/26	Wed 3/27	Thu 3/28	Fri 3/29	Total	Time Reporting Code
+	-					8.000				FMLA-KCFML Sick Leave - 315
+	-			8.000	8.000		8.000	8.000		Regular Earnings - 005

Submit

**Scenario #3 – Timekeeper Entry:** Will Clark is an FLSA-exempt position scheduled to work 7 hours a day and 35 standard hours a week. His agency has timekeeping professional staff enter time on the timesheet. He has recently been approved to take intermittent FMLA/KCFML for a four-hour appointment every Tuesday and Thursday. He currently has zero paid leave accruals (sick, vacation).

### Timesheet

**Will Clark** Employee ID  
 Project/Program Manager IV Empl Record 0  
 Actions Earliest Change Date 03/23/2019

**Select Another Timesheet**

\*View By Week Previous Week Next Week  
 \*Date 03/23/2019 31 ↻

Scheduled Hours 40.000 Reported Hours 0.000 Proration of Labor Costin

**From Saturday 03/23/2019 to Friday 03/29/2019** ?

		Sat 3/23	Sun 3/24	Mon 3/25	Tue 3/26	Wed 3/27	Thu 3/28	Fri 3/29	Total	Time Reporting Code
+	-				4.000		4.000			FMLA-KCFML Unpaid - 460
+	-			7.000	3.000	7.000	3.000	7.000		Regular Earnings - 005

Submit

**IMPORTANT:** Although the employee is working a partial day he will only be paid for 3 hours of work since he is unable to supplement with paid accruals.

### Step Four: Agency Personnel Approve Payroll

Agency personnel approve payroll using their normal method of approval. Once the agency human resource professional initially provides information on how to code intermittent hours, the main responsibility for ensuring correct time entry is placed upon supervisors and timekeeping staff (or whoever approves payroll for your agency).

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Family & Medical Time Reporting Codes		Legend:	WTD Only	Solid Waste Only	DPD Only
TRC	Time Reporting Codes	TRC	Time Reporting Codes		
205	FMLA-KCFML Vacation	497AM	KCFML Donated Vacation AM Hrs		
205AM	FMLA-KCFML Vacation AM Hrs	498	KCFML Donated Benefit Time		
206	KCFML Vacation	499	KCFML Donated Sick Leave		
206AM	KCFML Vacation AM Hrs	499AM	KCFML Donated Sick Leave AM Hr		
207	FMLA-KCFML Benefit Time	503	KCFML Holiday Bank (DAJD Only)		
208	KCFML Benefit Time	512	JI Leave w/o Pay FMLA-KCFML		
209	FMLA-KCFML Donated BT	512AM	JI Leave w/o Pay FMLA-KCFML		
292	Donated Vacation Taken	515	JI Leave Hours w/accruals		
315	FMLA-KCFML Sick Leave	515AM	JI Leave Hours AM Hrs w/accruals		
315AM	FMLA-KCFML Sick Leave AM Hrs	516	JI Leave without Pay		
317	KCFML Sick Leave	516AM	JI Leave without Pay AM Hrs		
317AM	KCFML Sick Leave AM Hrs	517	JI Leave Hours FMLA-KCFML w/accruals		
382	Donated Sick Taken	517AM	JI Leave Hours FMLA-KCFML AM Hrs w/accruals		
460	FMLA-KCFML Unpaid	530	JI Medical		
460AM	FMLA-KCFML Unpaid AM Hrs	530AM	JI Medical - AM Hrs		
461	KCFML Unpaid	531	JI Medical FMLA-KCFML		
461AM	KCFML Unpaid AM Hrs	531AM	JI Medical FMLA-KCFML AM Hrs		
464	Sick Taken DPD	535	JI Treatment Pay		
467	FMLA-KCFML DPD Sick Taken	535AM	JI Treatment Pay AM Hrs		
493	KCFML DPD Sick Taken	537	JI Treatment FMLA-KCFML		
478	FMLA-KCFML Donated Sick Leave	537AM	JI Treatment FMLA-KCFML AM Hrs		
478AM	FMLA-KCFML Donated Sick Leave AM Hrs	545	JI Day of Injury		
479	FMLA-KCFML Donated Vacation	545AM	JI Day of Injury AM Hrs		
479AM	FMLA-KCFML Donated Vacation AM Hrs	546	JI Day of Injury FMLA-KCFML		
502	KCFML Executive Leave	546AM	JI Day of Injury FMLA-KCFML AM Hrs		
501	KCFML Comp Time	550	JI Supplemental with Sick		
501AM	KCFML Comp Time AM Hrs	550AM	JI Supplemental with Sick AM		
487	FMLA-KCFML Comp Time	555	JI Supplemental with Vac/Ben		
487AM	FMLA-KCFML Comp Time AM Hrs	555AM	JI Supplemental w Vac/Ben AM		
488	FMLA-KCFML Executive Leave	557	JI Special Sick Pay FMLA-KCFML		
489	FMLA Holiday Bank	558	JI Special Sick Pay KCFML		
492	FMLA-KCFML Personal Holiday	559	JI Special Sick Pay		
493	KCFML Personal Holiday	751	Paid Parental Leave		
497	KCFML Donated Vacation	754	FMLA-KCFML Paid Parental Leave		
		755	KCFML Paid Parental Leave		