

EXHIBIT BOOK

POLICIES FOR BOARD APPROVAL PURSUANT TO NYS PUBLIC AUTHORITIES LAW

Corporate Governance Committee Meeting
05/28/25

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Table of Contents:

LIRR Family and Medical Leave - Rev-001 3.10.25 - Page 3

Compensatory Time (11-093) 05.21.2025 - Page 17

Military Leave Reporting to MTA Reemployment After Return From Service (11-092) 05.21.2025 - Page 24

Lactation Policy 11-089 Draft 2.27.2024 vs 3.12.2025 Redline - Page 30

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

I. PURPOSE

The purpose of this Corporate Policy and Procedure (Policy) is to establish procedures for providing family and medical leaves of absence (family/medical leave) in accordance with the Family and Medical Leave Act of 1993 (FMLA), as amended by the National Defense Authorization Act for Fiscal Year 2010 (2010 NDAA).

II. SCOPE

This Policy applies to all LIRR employees.

III. DEFINITIONS

- A. **Child** - means a biological, adopted or foster child, stepchild, legal ward, or a child of a person standing in the place of a parent, who is: (1) under eighteen (18) years old; or (2) eighteen (18) years old or more and incapable of self-care because of a mental or physical disability, as defined under the Americans with Disabilities Act (ADA).
- B. **Parent** - means the biological parent of an employee or an individual who stood in the place of a parent to an employee when the employee was a child. This term does not include parents-in-law.
- C. **Spouse** - means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.
- D. **Domestic Partner** - For the purposes of this Policy, Domestic Partners of employees are defined as same or opposite sex partners, age eighteen (18) or older, with whom they reside and have a committed, long term relationship of mutual support and for whom they have assumed long term financial responsibility or have mutual financial responsibility. However, persons who live together for economic reasons, but who have not made a commitment to an exclusive enduring Domestic Partnership will not be considered Domestic Partners. Both partners must not be married to other individuals and must not be related by blood in a way that would bar marriage under the laws of the State of New York.

The partners must be each other's sole Domestic Partner and must have been involved in a Domestic Partnership for a period of not less than six (6) months. Employees must be able to document all these criteria to be registered as Domestic Partners.
- E. **Key Employee** - means a salaried eligible employee who is among the highest paid ten (10) percent of all the employees employed by the LIRR.
- F. **Equivalent Position** - a job that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges and status. It must involve the same or substantially similar duties and responsibilities, requiring substantially equivalent skill, effort, responsibility, and authority.

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

G. Employment Benefits - all benefits provided or made available to employees by the LIRR, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions.

H. Serious Health Condition - an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care – which means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, including treatment and recovery), or any subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider – which includes any one or more of the following:
 - a. A period of incapacity of more than three consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times, within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

The requirement for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity.

A regimen of continuing treatment includes a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition.

- b. Any period of incapacity due to pregnancy, or for prenatal care.
- c. Any period of incapacity or related treatment due to a chronic serious health condition. A chronic serious health condition is one which (i) requires periodic visits (at least twice a year) for treatment by a health care provider; (ii) continues over an extended period of time; and (iii) may cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy).
- d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective.
- e. Any period of absence to receive multiple treatments by a health care provider for (i) restorative surgery after an accident or other injury, or (ii) a condition that would likely result in a period of incapacity of more than three consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.).

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

Absences attributable to pregnancy, prenatal care, or a chronic serious health condition qualify for family/medical leave even though the employee or covered family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive full calendar days.

Conditions for which cosmetic treatments are administered are not serious health conditions unless inpatient hospital care is required or unless complications develop.

- I. **Intermittent Leave** - a family/medical leave taken in separate blocks of time due to a single qualifying reason.
- J. **Reduced Leave Schedule** - a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time.
- K. **Covered Service Member** - a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or has otherwise been placed on the Temporary Disability Retired List (TDRL) under the authority of 10 U.S.C. §1202 or §1205, for a serious injury or illness incurred in the line of duty on active duty.
- L. **Work-partners:** Third-Party Administrator who serves as an intermediary between the employee and employer to manage the FMLA process.

IV. ESSENTIAL FUNCTIONS

- A. **Deputy Chief People Office**~~Director-Human Resources~~ – oversees administration of this Policy.
- B. **Senior Director-Employee Services** – manages day-to-day operation of this Policy.
- C. **Assistant Medical Director, MTA-Occupational Health Services (MTA-OHS/LIRR Medical)**~~—provides medical oversight as required by this Policy.~~
- D. **Employees** – must provide full cooperation when requesting family/medical leave under this Policy.

V. PROCEDURES

A. **Eligibility**

An employee is eligible for family/medical leave if they has been employed by the LIRR for at least twelve (12) months and has worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the leave. These hours must be actual hours worked.

Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA), an employee returning from fulfilling their National Guard or Reserve military

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

obligation shall be credited with the hours of service that would have been performed but for the period of military service in determining whether the employee worked the 1,250 hours of service.

B. Entitlement to Leave

Subject to the notice and certification requirements in this Policy, an eligible employee is entitled to up to a total of twelve (12) weeks of unpaid leave during the twelve (12) month period measured forward from the commencement of the employee's first family/medical leave for the following reasons:

1. because of a serious health condition of the employee that makes the employee unable to perform the functions of the employee's job; or
2. for the birth of a child of the employee and to care/bond for such child within twelve (12) months of the birth of that child; or
3. for the placement of a child with the employee either through adoption or foster care within twelve (12) months of that placement; or
4. to care for a spouse, domestic partner, child or parent of the employee, if such spouse, domestic partner, child or parent has a serious health condition; or
5. because of any "qualifying exigency" arising out of the fact that the employee's spouse, domestic partner, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation; or
6. to care for a covered servicemember with a serious injury or illness if the employee is the spouse, domestic partner, child, parent, or next of kin of the servicemember.

C. Military Qualifying Exigency Leave

An eligible employee may take family/medical leave while the employee's spouse, domestic partner, child, or parent (the "covered military member") is on active duty or call to active duty status for one or more of the following qualifying exigencies: (1) short-notice deployment; (2) military events and related activities; (3) certain temporary child care arrangements and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation, (7) post-deployment activities; and (8) other events which arise out of the covered military member's active duty or call to active duty status provided the LIRR and employee agree the leave will qualify as an exigency, and agree to both the timing and duration of the leave.

"Active duty or call to active duty status" means duty under a federal call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation pursuant to Sections 688, 12301(a), 12302, 12304, 12305, 12406 of Title 10 of the United States Code, Chapter 15 of Title 10 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

The covered military member must be on active duty or call to active duty status as either a member of the reserve components (Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve) or be serving in the Regular Armed Forces, or a retired member of the Regular Armed Forces or Reserve.

A military operation qualifies as a “contingency operation”, if it (1) is designated by the U.S. Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force, or (2) results in the call or order to, or retention on, active duty of members of the uniformed services under the United States Code Sections cited above.

D. Military Caregiver Leave

An eligible employee who is the spouse, domestic partner, child, parent, or next of kin of a covered servicemember is entitled to a total of twenty-six (26) weeks of family/medical leave during a single twelve (12) month period to care for the covered servicemember who has a serious injury or illness incurred in the line of duty on active duty for which they are undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. The single twelve (12) month period begins on the first day the eligible employee takes family/medical leave to care for the covered servicemember and ends twelve (12) months after that date.

“Covered servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness.

The “next of kin” of a covered servicemember is the nearest blood relative other than the covered servicemember’s spouse, child, or parent, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

The term “serious injury or illness,” with respect to a covered servicemember, means an injury incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of their office, grade, rank, or rating.

“Outpatient status,” with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to either (1) a military medical treatment facility as an outpatient, or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

An eligible employee is entitled to a combined total of twenty-six (26) weeks for any family/medical qualifying reason during the single twelve (12) month period, provided that

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

the employee is entitled to no more than twelve (12) weeks of leave for any other family/medical qualifying reason. For example, an eligible employee may, during the single twelve (12) month period, take sixteen (16) weeks of family/medical leave to care for a covered servicemember and ten (10) weeks of family/medical leave to care for a newborn child.

E. Both Spouses Employed by the LIRR

When both spouses are employed by the LIRR, they are limited to a combined total of twelve (12) weeks of family/medical leave during any twelve (12) month period if the leave is taken for the birth of the employee's child or to care for the child after birth, or for the placement of a child with the employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition. This limitation on the total weeks of leave applies even though the spouses are assigned to two different work sites or departments. Where the spouses both use a portion of the total twelve (12) week leave entitlement for one of these purposes, they will each be entitled to the difference between the amount of leave they have taken individually and twelve (12) weeks for some other qualifying purpose.

When both spouses are employed by the LIRR, they are limited to a combined total of twenty-six (26) weeks of family/medical leave during the single twelve (12) month period if the leave is taken to care for a covered servicemember with a serious injury or illness or a combination of leave taken to care for the covered servicemember and leave taken for any other qualifying reason.

F. Notice Requirements

1. An employee must provide at least thirty (30) days advance notice to Workpartners ~~the LIRR~~ before the family/medical leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or the employee's spouse, domestic partner, child, or parent, or the planned medical treatment for a serious injury or illness of a covered servicemember. If thirty (30) days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, an employee must give notice to Workpartners ~~the LIRR~~ as soon as practicable. For foreseeable leave due to a qualifying exigency, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable. In general, while the determination of when an employee could practicably provide notice will take into account the individual facts and circumstances, when an employee becomes aware of a need for family/medical leave less than thirty (30) days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next business day.
2. When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to Workpartners ~~the LIRR~~ as soon as practicable under the facts

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

and circumstances of the particular case. In such a case, the employee must comply with any applicable call-in procedures.

3. When the need for family/medical leave is foreseeable at least thirty (30) days in advance and an employee fails to give timely advance notice with no reasonable excuse, the FMLA coverage may be delayed until thirty (30) days after the date the employee provides notice. When the need for family/medical leave is foreseeable fewer than thirty (30) days in advance or is unforeseeable, and an employee fails to give notice as soon as practicable, FMLA coverage for the leave may be delayed.
4. When planning medical treatment for the employee, or the employee's spouse, domestic partner, child, parent, or for a covered servicemember, the employee must consult with their supervisor and make a reasonable effort to schedule the treatment so as not to unduly disrupt the LIRR's operations, subject to the approval of the health care provider. For example, scheduling treatment on off-hours or on a relief day. If the employee neglects to consult with their supervisor to make a reasonable effort to arrange the schedule of treatments so as not to unduly disrupt the LIRR's operations, the LIRR will initiate discussions with the employee and will require the employee to attempt to make such arrangements, subject to the approval of the health care provider.
5. The employee shall advise Workpartners ~~the LIRR~~ as soon as practicable if the dates of the scheduled leave change or are extended, or were initially unknown.
6. When requesting family/medical leave under this Policy, the employee must contact Workpartners to initiate a leave request. ~~either submit a completed "Family and Medical Leave Application" form (HR-BEN-028) to the LIRR Human Resources Department or, employees may apply directly on the Business Service Center portal (www.mymta.info) by signing on then selecting "My Benefits" then choosing "FMLA Request".~~

Note: ~~If submitting the HR-BEN-028 form, it should not be submitted to the employee's department.~~

7. ~~Workpartners~~ The Human Resources Department will review the "Family and Medical Leave Application" and determine eligibility based on length of service and hours worked in the preceding twelve (12) month period. The employee will be notified by the Workpartners BSG whether he/she has met the eligibility requirements for the leave.

G. Certification

1. If the employee is eligible for family/medical leave and the employee's request for leave is for the birth, adoption or placement of a child in foster care, the employee must submit substantiating documentation (i.e., ~~birth certificate, court papers~~) in a sealed confidential envelope ~~directly to the Director-Employee Services~~.
2. If the employee is eligible for family/medical leave and the leave is:
 - a. taken for the employee's own serious health condition, the employee must have their health care provider complete a "Certification of Health Care Provider" form

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

- ~~(HR-BEN-069) and submit it in a sealed confidential envelope directly to either the Director-Employee Services or to the Assistant Medical Director, MTA-OHS; or~~
- b. taken to care for a spouse, domestic partner, child, or parent who has a serious health condition, the employee must have a "Certification of Health Care Provider" form ~~(HR-BEN-070) completed by the health care provider of the employee's spouse, domestic partner, child, or parent, as appropriate, and submit to Workpartners.~~ ~~and submit it in a sealed confidential envelope directly to either the Director-Employee Services or to the Assistant Medical Director, MTA-OHS.~~
3. If the employee is eligible for family/medical leave and the leave is taken to care for a covered servicemember with a serious injury or illness, the employee must have a "Certification for Serious Injury or Illness of Covered Service Member"-form completed and submitted to Workpartners. ~~(HR-BEN-072)- contact the LIRR Employee Services Office or the BSC for this form), completed by an authorized health care provider of the covered servicemember.~~
4. If the employee is eligible for family/medical leave and the leave is taken for a "qualifying exigency" arising out of the active duty or a call or order to active duty status, the employee must provide a completed "FMLA Certification of Qualifying Exigency for Military Family Leave" form ~~(HR-BEN-071)-along with proper documentation, such as a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service-~~ ~~in a sealed confidential envelope directly to the Director-Employee Services.~~
5. The "Certification of Health Care Provider" form, which must be legible, completed in full, and signed and dated by the health care provider, will be reviewed to determine entitlement to family/medical leave.
6. Workpartners ~~The LIRR~~ will advise the employee whenever it finds that the "Certification of Health Care Provider" form is incomplete or insufficient, and will state in writing what additional information is necessary to make the certification complete and sufficient. The employee will have seven (7) calendar days to cure any such deficiency. If the deficiencies are not cured, the request may be denied.
7. ~~A health care provider representing the LIRR, or a representative from the LIRR Human Resources Department may contact the employee's health care provider, or the health care provider of the employee's spouse, domestic partner, child, or parent, or covered servicemember, for purposes of clarification and authentication of the medical certification (whether initial certification or recertification) after the employee has had an opportunity to cure any incomplete or insufficient certification.~~
8. If the LIRR has reason to doubt the validity of the medical certification (for the employee or the employee's spouse, domestic partner, child, or parent, or a covered servicemember), the LIRR may require the employee to obtain a second opinion at the LIRR's expense. The LIRR is permitted to designate the health care provider, who may

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

not be employed by the LIRR on a regular basis, to furnish the second opinion. If the second opinion differs from the original medical certification, the LIRR may require, at the LIRR's expense, that the employee obtain a third opinion from a health care provider designated or approved jointly by the LIRR and the employee. The opinion of the third health care provider shall be final and binding on the LIRR and the employee.

9. Upon request by the employee, the LIRR will provide the employee with a copy of the second and third medical opinions, where applicable. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to family/medical leave. However, if the certifications do not ultimately establish the employee's entitlement to family/medical leave, the leave shall not be designated as family/medical leave and may be treated as paid or unpaid leave under the LIRR's leave policies.
10. If an employee fails to provide a complete and sufficient certification in a timely manner, despite the opportunity to cure any deficiency, or fails to provide any certification, the LIRR may deny the taking of family/medical leave.
11. The employee will receive, Notice of Eligibility and Rights & Responsibilities and Leave Designation Notice.
12. The LIRR reserves the right to retroactively designate any leave as family/medical leave, with appropriate notice to the employee, whether or not the employee requested family/medical leave, if the LIRR has reason to believe an employee's absence qualifies as family/medical leave.

H. Recertification

The LIRR may request subsequent recertification of medical conditions consistent with FMLA regulations. The employee must provide the requested recertification within the time frame requested. Any recertification requested shall be at the employee's expense.

I. Confidentiality

Workpartners ~~The LIRR~~ will keep confidential all medical information relating to requests for family/medical leave. Such information will be used only as permitted by this Policy. Supervisors and managers may be given information concerning necessary work restrictions and accommodations.

J. Intermittent Leave or Reduced Leave Schedule

1. Leave taken because of an employee's serious health condition, or to care for a spouse, domestic partner, child or parent who has a serious health condition, or to care for a covered servicemember with a serious injury or illness may be taken intermittently or on a reduced leave schedule if medically necessary.
2. Leave taken because of a "qualifying exigency" arising out of active duty or a call or order to active duty status, may be taken intermittently or on a reduced leave schedule.

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

3. In the case of leave taken after the birth of a child or placement of a child for adoption or foster care, leave is to be taken on a continuous basis, except in limited circumstances leave may be taken intermittently or on a reduced leave schedule if specifically approved in writing by the Senior Director-Employee Services Human Resources (or designee) and the employee's Department Head.
4. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the LIRR's operations. If the employee neglects to consult with their supervisor to make a reasonable effort to arrange the schedule of treatments so as not to unduly disrupt the LIRR's operations, the LIRR will initiate discussions with the employee and will require the employee to attempt to make such arrangements, subject to the approval of the health care provider.
5. If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee, the employee's spouse, domestic partner, child, or parent, or a covered servicemember, or for the birth of a child or for placement of a child for adoption or foster care (if specifically approved in writing), the LIRR may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave. Employees transferred under these circumstances will receive equivalent pay and benefits.
6. When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position, no longer needs to continue leave and is able to return to full-time work, the employee will be placed in the same or equivalent job as the job they left when the family/medical leave commenced.

K. Use of Accrued Paid Leave

1. Generally, family/medical leave is unpaid. However, accrued paid leave shall be utilized as follows:
 - a. In the case of family/medical leave taken because of an employee's own serious health condition, the LIRR WILL REQUIRE all employees to utilize accrued sick leave. If the sick leave bank of the employee is depleted or becomes depleted, he/she may then elect to utilize accrued vacation, personal days, or compensatory time for the family/medical leave. If not, the leave becomes unpaid.
 - b. In the case of family/medical leave taken because of an employee's own serious health condition, or to take care of a spouse, domestic partner, child or parent who has a serious health condition, or to care for a covered servicemember with a serious injury or illness, the LIRR WILL REQUIRE all management employees and represented employees with management benefits (collectively Management Employees) to utilize accrued sick leave for family/medical leave. If the sick leave bank of the Management Employee is depleted or becomes depleted, he/she may

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

then elect to utilize accrued vacation, personal leave, or compensatory time for the family/medical leave. If not, the leave becomes unpaid.

- c. Employees on paid sick leave that is designated as family/medical leave must comply with the sick leave provisions in all applicable Collective Bargaining Agreements and/or LIRR or Department policies and procedures regarding sick leave.
 - d. In the case of family/medical leave taken for reasons other than those described in paragraphs (a) and (b) above, all employees may elect to utilize accrued vacation, personal leave, or compensatory time for any part of a family/medical leave period (i.e., part of the 12 week or 26 week period as appropriate). If the employee elects not to utilize accrued leave, the leave will be without pay.
2. To the extent that an employee uses accrued paid leave or compensatory time while they are on designated family/medical leave, the use of the accrued paid leave or compensatory time will run concurrently with the family/medical leave. The LIRR will count all such leave time toward the employee's twelve (12) week or twenty-six (26) week family/medical leave entitlement.

L. Reporting While on Family/Medical Leave

If an employee takes a continuous family/medical leave because of their own serious health condition, or to care for a spouse, domestic partner, child, or parent who has a serious health condition, or a covered servicemember with a serious injury or illness, the employee may be required to report periodically on the status of the condition and their intention to return to work.

M. No Work While on Family/Medical Leave

An employee on family/medical leave is prohibited from working another job during the hours of their regular tour. An employee on family/medical leave who desires to work another job outside the hours of their regular tour must obtain the prior written approval of the LIRR Human Resources Department. The LIRR Human Resources Department may require the employee to provide appropriate medical documentation to support their request. Violation of this provision may result in disciplinary action, up to and including discharge.

N. Return to Work

1. Where an employee's family/medical leave is occasioned by the employee's own serious health condition, the employee may be required to present medical certification from the employee's health care provider that the employee is able to resume work and that they are able to perform the essential functions of the employee's job. If medical certification is required, restoration to employment will be denied until the employee submits the required medical documentation.

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

2. Except as required by a collective bargaining agreement, the LIRR will not request a certification of fitness to return to duty for absence taken on an intermittent or reduced leave schedule. However, where an employee takes family/medical leave on an intermittent or reduced leave schedule because of their own serious health condition, the LIRR will require the employee to provide certification of fitness to return to work up to once every thirty (30) days if reasonable safety concerns exist regarding the employee's ability to perform their duties, based on the serious health condition for which the employee took such leave.
3. On return from family/medical leave, an employee is entitled to be returned to the same position the employee occupied when the leave commenced, or to an equivalent position.
4. The LIRR may deny restoration to employment for key employees if the denial is necessary to prevent substantial and grievous economic injury to the operations of the LIRR. In such cases, the LIRR will notify the key employee of the LIRR's intent to deny restoration and (if the leave has commenced) provide the key employee a reasonable time in which to return to work.
5. Any employee, who is unable to return to work following the expiration of their family/medical leave, may apply for any other remaining leave under any applicable LIRR policy or Collective Bargaining Agreement.

O. Employment Benefits Protection

1. The taking of family/medical leave will not result in the loss of any employment benefits accrued prior to the date on which the leave commenced.
2. Any health benefits provided to an employee by the LIRR will be maintained on the same basis, as coverage would have been provided if the employee had been continuously employed during the family/medical leave period. Therefore, any share of health plan premiums that had been paid by the employee prior to family/medical leave, must continue to be paid by the employee during the leave period.
3. If accrued paid leave is utilized for family/medical leave, the employee's share of health plan premiums will continue to be made by payroll deduction. If the family/medical leave is unpaid, the LIRR will pay the employee's health plan premium payment. The LIRR will recover the employee's share of any health plan premium payments missed by the employee for any family/medical leave period during which the LIRR maintains health coverage by paying the employee's share.
4. The LIRR will also seek to recover its share of health plan premiums during any period of unpaid family/medical leave from an employee if the employee fails to return to work after the employee's family/medical leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:
 - a. the continuation, recurrence, or onset of a serious health condition of the employee or the employee's spouse, domestic partner, child or parent, or a serious injury or

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

illness of a covered servicemember, which would otherwise entitle the employee to leave under this Policy; or

- b. other circumstances beyond the employee's control.
5. Where an employee fails to return to work because of the continuation, reoccurrence or onset of a serious health condition, thereby precluding the LIRR from recovering its share of health plan premiums, the LIRR will require medical certification issued of the serious health condition. The employee is required to provide the medical certification to the Director-Employee Services or the Assistant Medical Director, MTA-OHS no later than thirty (30) days from the LIRR's request. If the employee fails to provide the medical certification within thirty (30) days, or the reason for not returning to work does not constitute circumstances beyond the employee's control, the LIRR may recover 100% of the health plan premiums it paid during the period of unpaid family/medical leave.
 6. For employees who are on unpaid family/medical leave and who participate in a contributory supplemental life insurance program, the LIRR will maintain coverage by making premium payments on behalf of the employee to avoid a lapse in coverage. At the conclusion of the family/medical leave, the LIRR is entitled to recover the costs incurred for paying the employee's share of the premium payments, whether or not the employee returns to work.
 7. For the purpose of this section, an employee who returns to work for at least thirty (30) calendar days is considered to have "returned" to work.
 8. When paid leave is substituted for family/medical leave, the LIRR may not recover health plan or other non-health plan premiums for any period of family/medical leave covered by paid leave.
 9. With respect to pension and other retirement plans, the employee's eligibility will be governed by the terms of the applicable plan.

P. Fraud or Misrepresentation

Family/medical leave may only be taken for the reason(s) for which the leave was approved. An employee who requests and/or takes family/medical leave based on fraud or misrepresentation will be subject to discipline, up to and including dismissal. In addition, an employee who fraudulently obtains family/medical leave from the LIRR is not protected by the job restoration or maintenance of health benefits provisions of this Policy.

VI. FORMS AND ATTACHMENTS (~~Available on the BSC Portal~~)

None

VII. Workpartners Contact Information

~~HR-BEN-028 — Family and Medical Leave Application~~

Corporate Policy & Procedure

FAMILY AND MEDICAL LEAVE

LEAVE-003

~~HR-BEN-069 — Certification of Health Care Provider Form (for Employee's Serious Health Condition)~~
~~HR-BEN-070 — Certification of Health Care Provider Form (for Family Member's Serious Health Condition)~~
~~HR-BEN-054 — Employee Rights and Responsibilities under the Family and Medical Leave Act~~
~~HR-BEN-071 — FMLA Certification of Qualifying Exigency for Military Family Leave~~
~~HR-BEN-072 — FMLA Certification for Serious Injury or Illness of Covered Service Member Workpartners~~

Intake Phone Number – 1-833-325-7004
 Online Portal - <https://www.workpartners.com/portal>
 Fax Number – 1-844-531-4854
 Email – LIRRFMLA@workpartners.com

VII. REVISION TRACKING

February 2001

May 2005

June 2005

March 2010

November
2014

This Policy was due for review based on CP&P BPM-001 – Issuance of Corporate Policies and Procedures;
 Updated to comply with the National Defense Authorization Act requirements; and
 Provide information regarding access to forms on the BSC Portal.

December
2018

This Policy was due for review based on CP&P BPM-001 – issuance of Corporate Policies and Procedures;
 Physician-in-Charge was changed to Assistant Medical Director, MTA-Occupational Health Services (MTA-OHS).

April 2025

Revised Essential Functions and added Workpartners Contact Information section.

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 1 of 7

I. PURPOSE

This Policy Directive sets forth requirements for employees of Metropolitan Transportation Authority, including its current and any future subsidiary or affiliated entities of the MTA (collectively known as “MTA Agencies” or “MTA”) to utilize Compensatory Time.

II. OBJECTIVE

The objective of this Policy Directive is to provide a consistent approach across the MTA Agencies for the accrual and usage of Compensatory Time by exempt (or non-overtime eligible) non-represented employees and represented employees who receive managerial benefits under their collective bargaining agreements.

III. SCOPE

- A. This Policy Directive supersedes and replaces all previous memorandums and policies on this subject.
- B. This Policy Directive does not govern non-exempt or overtime eligible employees who receive Compensatory Time as overtime payments, as may be allowed by law.
- C. For represented employees, in the event of a conflict between this Policy Directive and a collective bargaining agreement, the terms of the collective bargaining agreement shall govern.

IV. DEFINITIONS

Compensatory Time: Time accrued as a result of working four (4) or more consecutive hours either before or after one’s regular tour of duty any given day of the week, on an MTA Holiday, or a rest day, in accordance with this Policy Directive. In the case of special circumstances such as unforeseen operational emergencies that disrupt service, or situations which pose a critical risk to an operation that are administrative in nature (such as an outage of a critical corporate application) there will be an opportunity with the required approvals for employees to earn Compensatory Time after two (2) hours.

Compensatory Time Approval: The process by which employees submit a request to their immediate supervisor when requesting to work additional hours that will be credited to Compensatory Time. At the discretion of the MTA Agency, Compensatory Time requests and approvals may be submitted in an email or Compensatory Time Approval Form (see Sample Form Attachment A). Email or Form must contain the Compensatory Time hours requested, justification, and approval for hours worked. Compensatory Time hours must subsequently be reviewed and approved via the MTA Agency timekeeping system.

Compensatory Time Bank: Time that is credited as Compensatory Time to an eligible employee.

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 2 of 7

Department Head or Designee: Individuals designated by each MTA Agency's organizational structure and may include direct reports of a direct report to a President.

Division Head or Designee: Individuals designated by each MTA Agency's organizational structure.

Exempt Employee/ Non-Overtime Eligible Employee: Any employee designated as Executive, Administrative, Professional, or Computer under the provision of the Fair Labor Standards Act (FLSA), if applicable, or otherwise designated as not eligible to receive overtime. An Exempt Non-Overtime Eligible Employee can earn Compensatory Time and is not paid overtime.

Extended Tour: Working at least four (4) consecutive hours either before and/or after the normally scheduled workday. In the case of special circumstances such as unforeseen operational emergencies that disrupt service, or situations which pose a critical risk to an operation and are administrative in nature (such as an outage of a critical corporate application), there will be an opportunity with the required approvals for employees to earn Compensatory Time after two (2) hours.

MTA Holiday: Any of the paid leave days as defined by each Non-Represented MTA Agency Holiday Policy Directive (holidays may vary by MTA Agency).

Non-Represented Employee: Any employee whose compensation and leave accrual are not based upon rules negotiated or recognized by the MTA through a collective bargaining agreement.

Payroll Period: A period during which an employee works and/or uses paid leave. The actual number of weeks/days in a qualifying period is based on the payroll at each MTA Agency.

Represented Employee: Any employee whose compensation and leave accrual are based upon rules negotiated and recognized by the MTA through a collective bargaining agreement.

Rest Day: A regularly scheduled day off.

Separation: The voluntary or involuntary termination or retirement of an employee from employment with the MTA.

Supervisor: Any manager authorized by a Department/Division Head or their designee to approve employee time reports for one or more regular employees.

Workday: A standard day for employees scheduled with defined hours of attendance. Defined work hours may vary by MTA Agency.

Workweek: A standard week for employees scheduled with defined days and hours of attendance. The basic workweek may vary by MTA Agency.

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 3 of 7

V. POLICY

- A. **Circumstances for Compensatory Time:** Compensatory Time arises when an eligible employee is approved, in advance, by management to work under certain circumstances including those that are exceptional/operational in nature such as emergencies, derailments, service disruptions etc., on a rest day, an MTA/MTA Agency Holiday, or an extended tour either before or after their normally scheduled workday.
- B. **Eligibility:** Exempt (or non-overtime eligible), non-represented employees and represented employees who receive managerial benefits under their collective bargaining agreements are eligible for Compensatory Time. Department/Division Head or Designee may determine that based on the nature of their Departments or Divisions, employees in certain titles or functions are not eligible for Compensatory Time. With advance supervisor approval, eligible employees may be granted Compensatory Time as a result of working four (4) or more consecutive hours on a rest day, an MTA/MTA Agency Holiday, or an extended tour either before or after their normally scheduled workday. In the case of special circumstances such as unforeseen operational emergencies that disrupt service, or situations which pose a critical risk to an operation that are administrative in nature (such as an outage of a critical corporate application), there will be an opportunity with the required approvals for employees to earn Compensatory Time after two (2) hours. The Chair/CEO; direct reports to the Chair/CEO and their direct reports; as well as the direct reports to the HQ CAO and their direct reports, are not eligible to earn Compensatory time.
- C. **Compensatory Time Accrual Rate:** Employees must work a minimum of four (4) consecutive hours either before or after their normal Workday, on an MTA/MTA Agency Holiday, or on a rest day to receive Compensatory Time. Employees will continue to accrue additional time beyond the four (4) hours in full thirty (30) minute increments to the maximum policy daily amount of eight (8) hours. In the case of special circumstances such as unforeseen operational emergencies that disrupt service, or situations which pose a critical risk to an operation that are administrative in nature (such as an outage of a critical corporate application), there will be an opportunity with the required approvals for employees to earn Compensatory Time after two (2) hours.
- D. **Compensatory Start and End Time:** The employee's travel to the work location and after the conclusion of work is not eligible for Compensatory Time. Only time spent working is eligible for Compensatory Time. An employee assigned to stand-by duty/on-call duty is not eligible for Compensatory Time.
- E. **Maximum Hours for Accrual:** A maximum of eight (8) hours of Compensatory Time can be earned for any one workday. Special circumstances designated by the Chair/CEO, direct reports to the Chair, MTA Agency Presidents or Designee may allow for daily accruals to increase to a daily maximum of twelve (12) to sixteen (16) consecutive hours via memorandum or email communication.
- F. **Transition Considerations and Applicable Timeline:** Balances on the date that this Policy Directive is issued,

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 4 of 7

can be cashed out on a one-time basis to a maximum of twenty (20) days and/or utilize such existing balances (days/hours) within one (1) year without forfeiture. This transition cash out is non-pensionable. After the one-year timeframe expires, no Compensatory Time Bank will be maintained going forward, and the 180-day utilization rule in G below will apply.

- G. **Compensatory Time Expiration Rule:** With the authorization of this Policy Directive, Compensatory Time earned will expire 180 calendar days from the date earned. There will be no exceptions and balance usage for terminal leave purposes will not be allowed.
- H. **Voluntary Separation and Interagency Transfer Rules:** Upon voluntary separation from the MTA, a maximum of ten (10) unexpired compensatory days will be eligible to be cashed out. When transferring between MTA agencies, all unexpired balances to a maximum of 10 days will be cashed out at the separation rate of pay at the time of transfer and is not subject to retro wage adjustments.
- I. **Equitable Assignment of Compensatory Time:** Supervisors shall assign employees to work Compensatory Time in a manner that balances departmental productivity and equitable treatment of all members of the department.
- J. **Disclaimer:** This Policy Directive is not intended to and does not create any right, contractual or otherwise, for any employee. The MTA reserves the right to revise, add to, or delete any portion of this Policy Directive at any time, in its sole discretion, without prior notice to employees.
- K. **Non-Compliance:** Any violation or abuse of the Compensatory Time Policy Directive may result in disciplinary action, up to and including termination.

VI. PROCEDURE

A. Authorization

- Required for Non-Emergency Situations:** In non-emergency situations, Compensatory Time shall be authorized and approved in advance and in writing by the employee's supervisor and by the Department/Division Head or Designee. At the discretion of the MTA Agency, Compensatory Time requests and approvals may be submitted in an email or Compensatory Time Approval Form (see Sample Form Attachment A). Email or Form must contain the Compensatory Time hours requested, justification, and approval for hours worked. Compensatory Time hours must subsequently be reviewed and approved via the MTA Agency timekeeping system.
- Required for Emergency Situations:** In unforeseen emergency situations such as natural and/or operational emergencies (i.e., derailments) or other matters outside of the MTA's control, Compensatory Time shall be verbally authorized and approved (in advance, if possible) by the employee's supervisor and by the Department/Division Head or Designee. When a verbal

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 5 of 7

authorization is given, the employee is required to submit the Compensatory Time request to their supervisor for approval of time worked within the next business day or as soon as practicable. At the discretion of the MTA Agency, Compensatory Time requests and approvals may be submitted in an email or Compensatory Time Approval Form (see Sample Form Attachment A). Email or Form must contain the Compensatory Time hours requested, justification, and approval for hours worked. Compensatory Time hours must subsequently be reviewed and approved via the MTA Agency timekeeping system.

- B. **Timekeeping:** Supervisors, Department Heads and/or Division Heads or Designee are responsible for signing and approving employees' time reports and the MTA Agency or Central Timekeeping group is accountable for ensuring that all Compensatory Time hours earned and used are properly documented, credited, and debited to the employees' payroll records.
- C. **Recordkeeping:** Compensatory Time Approval documentation shall be maintained by the Department/Division Head or Designee. A copy of the employee's time report for the period during which the Compensatory Time is earned shall accompany the approval documentation. In addition, a copy of the employee's time report for the period that Compensatory Time is credited shall accompany the Compensatory Time Approval documentation. Documentation should be maintained by the department, auditable for that employee, and signed by the manager/supervisor.
- D. **Use of Accrued Compensatory Time:** With approval, Compensatory Time may be used by an employee to take time off with pay, in a minimum of thirty (30) minute increments. Usage must occur within 180 calendar days from the date earned. Use of Compensatory Time is pensionable. Eligible Employees using Compensatory Time accruals for time off must follow their normal absence approval and reporting processes.
- E. **Interagency Transfer:** When transferring to a position at another MTA Agency, regular employees shall receive payment for the cash value at their current rate of pay at the time of transfer for up to ten (10) unexpired Compensatory days and is not subject to retro wage adjustments. Compensatory Time cash out for interagency transfers are non-pensionable. Any time exceeding ten (10) days will be forfeited.
- F. **Compensatory Time Cash Out:** At the time of voluntary separation (retirement or resignation) from the MTA, a regular employee shall receive payment for the cash value at their current rate of pay at the time of separation for up to ten (10) unexpired Compensatory days and is not subject to retro wage adjustments. Compensatory Time cash out for voluntary separations are non-pensionable. Any time exceeding ten (10) days will be forfeited and cannot be used as terminal leave. Employees who are involuntarily separated will not be eligible for cash out upon termination.
- G. **Special Circumstances/Exceptions:** Compensatory Time can be earned after two (2) hours for Special circumstances such as unforeseen operational emergencies that disrupt service, or situations which pose a critical risk to an operation and are administrative in nature (such as an outage of a critical corporate

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 6 of 7

application) and require the authorization of Compensatory Time. All exceptions and special circumstances must be initiated by an MTA Agency Department Head or their designee, documented in writing via email communication or memorandum, and submitted to the Agency President or designee for approval with a notification to the Deputy Chief People Officer for that MTA Agency and the Chief People Officer. Final approval will be required by the Chief People Officer. Approved exceptions and special requests must be communicated by the Deputy Chief People Officer/HR Business Partner group for that MTA Agency to the Agency timekeeping group.

VII. RESPONSIBILITIES

- A. **Financial Operations Office:** The Financial Operations Office, specifically the Timekeeping/Payroll Units, are responsible for the maintenance of payroll records for the correct recording of Compensatory Time hours, and of the accrual, use, and cash out of Compensatory Time balances. They are also responsible for ensuring that Compensatory Time is credited and debited to the employee's time attendance records and that the hours worked are authorized within the time and attendance system. It should be noted that for some agencies, review and authorization of Compensatory Time resides with the departmental timekeeping/payroll unit.
- B. **Department/ Division Head or Designee:** The Department/Division Head or Designee is responsible for pre-approving Compensatory Time request(s) for employees in their department or division and ensures compliance with this Policy Directive. In addition, the Department/Division Head or Designee provides final approval of Compensatory Time earned, ensures required approval documentation is kept on file and that Compensatory Time within the department or division is assigned in a manner that balances the resources and workload of the department with concerns for fairness among employees and budgetary constraints. The Department/Division Head monitors Compensatory Time usage in their Departments/Divisions.
- C. **People/Human Resources Department:** The People/Human Resources Department is responsible for the overall administration of this Policy Directive.
- D. **Eligible Employees:** Eligible Employees are responsible for submitting accurate work hours and maintaining an awareness of Compensatory Time accruals in their bank. Eligible Employees using Compensatory Time accruals for time off must follow their normal absence reporting processes.
- E. **Supervisors:** Supervisors are responsible for the completion and submission of Compensatory Time requests to the Department/Division Head or Designee for approval. In addition, Supervisors ensure that the maximum Compensatory Time Bank levels are not exceeded for employees in their charge, that usage is consistent with this Policy Directive, and ensure the correct recording of time, hours, accruals, and use of Compensatory Time balances.

COMPENSATORY TIME POLICY

Policy Number	Responsible Department	Effective Date	Page
11-093	People/Human Resources	May 21, 2025	Page 7 of 7

VIII. WAIVER

All waivers to this Policy Directive require the submittal of a written justification for review and consideration to the Chief People Officer or designee with notification to MTA Chief Ethics, Risk & Compliance Officer.

IX. POLICY LIFECYCLE

This Policy Directive will be reviewed every three (3) years and revised as necessary. As with all MTA Policy Directives, MTA reserves the right to modify or rescind this Policy Directive at its sole discretion at any time.

X. FORMS AND REFERENCES

Attachment A: Compensatory Time Approval Form for Exempt/Non-OT Eligible Employees (Sample Form). Sample form is attached as a supporting document to this Policy Directive.

Biometric Time Reporting Policy (11-069).

MILITARY LEAVE

REPORTING TO MTA/ REEMPLOYMENT AFTER RETURN FROM SERVICE

Policy Number	Responsible Department	Effective Date	Page
11-092	People/Human Resources	May 21, 2025	Page 1 of 6

I. PURPOSE

The purpose of this Policy Directive is to describe the reporting to work obligations and reemployment rights of employees returning from a leave of absence from work due to Service in the Uniformed Services. This Policy Directive is issued in accordance with the Federal "Uniformed Services Employment and Reemployment Rights Act of 1994" ("USERRA"), as well as any applicable state and local laws.

II. SCOPE

- A. This Policy Directive applies to all employees, represented and non-represented, of the Metropolitan Transportation Authority, including its current and any future subsidiary or affiliated entities (collectively known as "MTA Agencies" or "MTA"). For represented employees, in the event of a conflict between this Policy Directive and a collective bargaining agreement, the terms of the collective bargaining agreement shall govern.
- B. This Policy Directive does not apply to independent contractors, consultants, or employees in brief, nonrecurrent positions such as contingent, seasonal, temporary positions that do not continue indefinitely or for a significant period.

III. DEFINITIONS

Reemployment: Prompt return in the job position they would have attained with reasonable certainty if not for the absence due to uniformed service.

Service in the Uniformed Services: Military duty on a commission or noncommission status, on a voluntary or involuntary basis, in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time Federal National Guard duty, absence from work for a fitness examination for any of the above duty, and funeral honors duty by National Guard or Reserve members.

Uniformed Services: Army, Navy, Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Space Force, National Oceanic and Atmospheric Administration, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service; organized state militia, and any other category of persons designated by the President of the United States in time of war or emergency.

**MILITARY LEAVE
REPORTING TO MTA/ REEMPLOYMENT AFTER RETURN FROM SERVICE**

Policy Number	Responsible Department	Effective Date	Page
11-092	People/Human Resources	May 21, 2025	Page 2 of 6

IV. RESPONSIBILITIES

See Appendix A of the related Policy Directive, “Military Benefits (Under New York State Military Law).”

V. POLICY**A. Non-Discrimination**

MTA prohibits any form of discrimination on the basis of an employee’s or an applicant’s membership in, or obligation to perform, service for any of the Uniformed Services.

B. Departure Notice

1. Employees must notify their respective MTA Agency (either their supervisor or People/Human Resources) where they physically report, at least 30 days prior to departure for service, unless giving such notice is prevented by military necessity, as determined by a designated military authority, or is otherwise impossible or unreasonable under the circumstances.
2. Employees must provide their respective MTA Agency (either their supervisor or People/Human Resources) with orders or special orders concerning their military duty as soon as practicable after giving notice.
3. Employees may provide the notice or have an appropriate officer of the branch of the military service in which they will be serving provide the notice on their behalf.
4. Employees are not required to ask for permission for leave to perform service but must provide notice as required herein.
5. Employees must promptly respond to inquiries from their respective MTA Agency concerning additional information or necessary documentation.

C. Length of Service

As a general rule, employees may perform service for a cumulative period of up to five (5) years (absent any exceptions to the five-year rule as provided in applicable law) and retain

MILITARY LEAVE

REPORTING TO MTA/ REEMPLOYMENT AFTER RETURN FROM SERVICE

Policy Number	Responsible Department	Effective Date	Page
11-092	People/Human Resources	May 21, 2025	Page 3 of 6

reemployment rights with the MTA.

D. Disqualification

Employees may not be entitled to reinstatement if their employment prior to military service was for a brief or non-recurrent period (i.e., seasonal employment or if there was no reasonable expectation that employment would continue indefinitely), they did not receive an honorable discharge or were not released under honorable circumstances, their cumulative years of service was for more than five years (absent any exceptions to the five-year rule provided in applicable law), or they failed to apply for reemployment in a timely manner.

E. Reporting Upon Return and Reemployment Application

Upon return from military service, employees must report in writing or submit a new employment application to their MTA Agency in accordance with the following:

- Service of 1 to 30 Calendar Days or from a Fitness for Service Exam:** Employees must report to their working MTA Agency not later than the beginning of the first regularly scheduled work period on the first full calendar day following completion of service and the expiration of eight hours (i.e., an 8-hour “rest period”) after a period allowing for safe transportation home from the place where military service was performed.
- Service of 31 to 180 Calendar Days:** Employees must provide notice in writing to their MTA Agency no later than 14 calendar days following completion of military service and report to work as directed by their agency. Employees may be directed to submit an application for reemployment.
- Service of 181 or More Calendar Days:** Employees must provide notice in writing to their MTA Agency no later than 90 calendar days from completion of military service and report to work as directed by their agency. Employees may be directed to submit an application for reemployment.

Employees may receive paid leave without charge to leave credits for up to five (5) work days of paid leave annually for using any health-care related services associated with an illness or injury sustained while in a combat theater or combat zone of operations.

Note: The periods set forth above (i.e., 14 calendar days, 90 calendar days) do not count towards

MILITARY LEAVE

REPORTING TO MTA/ REEMPLOYMENT AFTER RETURN FROM SERVICE

Policy Number	Responsible Department	Effective Date	Page
11-092	People/Human Resources	May 21, 2025	Page 4 of 6

“service” for purposes of the cumulative five-year period. Based on operational necessity/job title, employees may be required based on their MTA Agency policy to undergo a medical examination and/or toxicological (or toxicology) testing. Employees returning from medical leave are responsible for communicating with their MTA Agency where they physically report concerning their return date and any need for extensions. Unapproved absences may be subject to discipline.

F. Disabled Employees

Employees who are hospitalized or convalescing from an illness or injury incurred in, or aggravated during, the performance of military service, must report in writing to their MTA Agency, and may be directed to submit an application for reemployment to their MTA Agency, within thirty (30) calendar days of recovering from the illness or injury (but no later than two (2) years after their return from service). This requirement shall not require an injured or ill employee to return prior to the waiting periods describe in Section E above. Injured or ill employees who are returning from military leave and who require a reasonable accommodation to perform the essential functions of their jobs should apply for a reasonable accommodation pursuant to the All-Agency Policy Directive 11-066, “Reasonable Accommodations for Job Applicants and Employees with a Disability, or a Pregnancy-Related Condition.”

G. Timely Notice

Employees are expected to notify their respective MTA Agency of their intent to return to work, as described above under Sections E. 1- 3. Employees who fail to apply for reemployment or report to work within the specified time limits will relinquish the rights described herein and be subject to their MTA Agency’s rules concerning absences.

H. Documentation Requirements

1. Employees who are absent for a period of service of 31 calendar days or more must provide documentation to establish that:
 - a. Their reemployment application is timely.
 - b. They have not exceeded the five-year cumulative limit on the duration of service.
 - c. Their separation or dismissal from service was not disqualifying.
2. Employees may be asked to submit the following documents to satisfy the above requirements:

MILITARY LEAVE

REPORTING TO MTA/ REEMPLOYMENT AFTER RETURN FROM SERVICE

Policy Number	Responsible Department	Effective Date	Page
11-092	People/Human Resources	May 21, 2025	Page 5 of 6

- a. Enlistment Contract or Oath of Office;
 - b. Department of Defense 214 Certificate of Release or Discharge from Active Duty;
 - c. Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;
 - d. Letter from the commanding officer or someone of comparable authority;
 - e. Certificate of completion from military training school;
 - f. Discharge certificate showing character of service;
 - g. Military Pay Voucher or a Leave and Earning Statement;
 - h. Letter from a National Disaster Medical System Team Leader or an Administrative Officer verifying dates and times of training or Federal activation;
 - i. Any additional supporting documentation to substantiate any dates not covered by the Certificate of Attendance and Military Pay Vouchers.
3. Employees must provide their MTA Agency with the required and any requested documentation within the timeframes set by their MTA Agency.

I. Documentation Availability

1. Employees may be terminated after reemployment if any documentation reveals that they are not eligible for reemployment or if any documents are deemed to have been altered or fraudulently modified.
2. Employees who do not submit required documentation may be subject to disciplinary action, loss of pay, or be subject to pay retractions for any overpayments.

J. Exceptions

Any exception to this Policy Directive must be approved in writing by the Employees' MTA Agency People/Human Resources Lead or designee.

VI. WAIVER

All waivers to this Policy Directive require the submittal of a written justification for review and consideration to the MTA Chief People Officer or designee with notification to MTA Chief Ethics, Risk & Compliance Officer.

MILITARY LEAVE
REPORTING TO MTA/ REEMPLOYMENT AFTER RETURN FROM SERVICE

Policy Number	Responsible Department	Effective Date	Page
11-092	People/Human Resources	May 21, 2025	Page 6 of 6

VII. POLICY LIFECYCLE

This Policy Directive will be reviewed every three (3) years and revised as necessary. As with all MTA policies, this Policy Directive does not constitute a contract, express or implied, and the MTA reserves the right to modify or rescind this Policy Directive at its sole discretion at any time.

VIII. FORMS AND REFERENCES

See “Military Benefits - Appendix A – Responsibilities” of the related Policy Directive, Military Benefits

LACTATION POLICY

<u>Policy Number</u>	<u>Responsible Department</u>	<u>Effective Date</u>	<u>Page</u>
<u>11-089</u>	<u>People/Human Resources</u>	<u>February 27, 2024</u>	<u>Page 1 of 7</u>

PURPOSE

The Metropolitan Transportation Authority (“MTA”) is committed to facilitating its employees’ ability to express breast milk while at work for up to three (3) years after the birth of a child. The MTA is further committed to prohibiting discrimination in the ~~workplace~~Workplace against any employee who chooses to express breast milk in the ~~work-place~~Workplace.

I. OBJECTIVE

The objective of this Policy Directive is to ensure that the MTA is in full compliance with the New York State Department of Labor ~~Guidelines Regarding the Policy on The~~ Rights of ~~Nursing Mothers~~Employees to Express Breast Milk in the ~~Work-Place~~Workplace (“NYS DOL Policy”). In accordance with ~~those~~ GuidelinesNYS DOL Policy, the MTA will provide ~~reasonable unpaid break time or permit employees to use up to thirty (30) minutes of paid break or meal time each day to allow occasion that~~ an employee has a reasonable need to express breast milk ~~for their nursing child. If employees need longer than 30 minutes on any such occasion, MTA will permit employees to use existing paid or unpaid break or meal times. The MTA will provide such paid breaks~~ for up to three (3) years following childbirth; and will make reasonable efforts to provide a room or other location where an employee can express milk in privacy. The ~~guidelines are a~~NYS DOL Policy can be found within supporting document Exhibit A.

II. SCOPE

This Policy Directive applies to all employees, represented and non-represented, of the ~~Metropolitan Transportation Authority~~MTA, including its current and any future subsidiary or affiliated entities (collectively known as “MTA Agencies” ~~or “MTA”~~). For represented employees, in the event of a conflict between this Policy Directive and a collective bargaining agreement, the terms of the collective bargaining agreement shall govern. This Policy Directive shall not be read as giving represented employees any seniority or other preferential treatment with respect to job assignments or locations unless otherwise provided in a collective bargaining agreement.

III. DEFINITIONS

Close Proximity: Close Proximity refers to when an employee can walk between the employee’s work location and a lactation room without significantly lengthening the employee’s requested break time. If employees routinely work in the field (“field-based employees”), they may use available lactation facilities in close proximity to their location in the field, if available.

Field-Based Employees: Those employees who do not ordinarily work in an office environment or other fixed physical location. Field-based employees are generally expected to clock in at a fixed location, but their regular job duties routinely take them to one or more remote locations over the course of their work day.

LACTATION POLICY

<u>Policy Number</u>	<u>Responsible Department</u>	<u>Effective Date</u>	<u>Page</u>
<u>11-089</u>	<u>People/Human Resources</u>	<u>February 27, 2024</u>	<u>Page 2 of 7</u>

Lactation Room: A clean room or other location, but not a restroom or toilet stall, at an MTA site that is designated for the purpose of expressing breast milk. A ~~Lactation Room~~lactation room should contain a chair, and a small table, desk, counter, or other flat surface. When feasible, the ~~Lactation Room will be well lit; free from intrusion and shielded from the view of others~~lactation room will provide good natural or artificial light; contain at least one electrical outlet, a surface to place a pump and other personal items; be near a clean water supply; and have the ability to be locked from the inside. It must be free from intrusion and shielded from the view of others. If a door with a functional lock is not available, a sign should be posted advising that the room is not accessible to other employees or the public. If the lactation room has a window, it must be covered with a curtain, blind or other covering. If a cubicle must be used as a ~~Lactation Room~~lactation room, it will need to be fully enclosed with a partition and not otherwise accessible to the public or other employees while it is in use for expression purposes. The cubicle walls shall be at least seven feet tall to ensure the nursing employee's privacy. If the MTA is unable to provide a room solely dedicated for lactation purposes, another available room or location will be provided. Agency Lactation Room Locations listing can be found on MTA Today.

LACTATION POLICY

<u>Policy Number</u>	<u>Responsible Department</u>	<u>Effective Date</u>	<u>Page</u>
<u>11-089</u>	<u>People/Human Resources</u>	<u>February 27, 2024</u>	<u>Page 3 of 7</u>

room or location will be provided.

~~**Close Proximity:** Close Proximity refers to when an employee can walk between the employee's work location and a Lactation Room without appreciably lengthening the employee's requested break time. If employees routinely work in the field ("field-based employees"), they may use available lactation facilities in close proximity to their location in the field, if available.~~

Reasonable Break Time: Generally, reasonable break time refers to ~~unpaid time~~ a paid break of up to 30 minutes per occasion, while not performing work duties ~~sufficient~~, to allow an employee to express breast milk, ~~which shall generally be no less than twenty~~

~~(20) minutes. If no Lactation Room is in close proximity to the employee's work location despite the MTA's reasonable efforts to provide such a Lactation Room, the unpaid time while not performing work duties generally shall be no less than thirty (30) minutes.~~ Employees may elect to take shorter ~~unpaid~~ breaks. The number of reasonable breaks will be dependent on the individual's needs.

~~**Field-Based Employees:** Those employees who do not ordinarily work in an office environment or other fixed physical location. Field-based employees are generally expected to clock in at a fixed location, but their regular job duties routinely take them to one or more remote locations over the course of their working day.~~

IV. RESPONSIBILITIES

- A. **Agency Deputy Chief People Officer:** shall designate one or more Lactation Room Coordinators to assist employees with identifying and scheduling the use of lactation rooms, including providing a list of available lactation rooms.
- B. **Lactation Room Coordinators:** responsible for developing appropriate ways to manage access to lactation rooms and ensure privacy to those using the rooms.
- C. **Managers/Supervisors:** responsible for ensuring compliance with this Policy and should raise any concerns about availability/time spent under this Policy with their Human Resources/People Business Partner before addressing with the employee.
- D. **Employees:** responsible for keeping track of their time spent under this Policy, including communicating with their manager/supervisor concerning their expected needs for time under this Policy and their availability generally.

IV.V. POLICY

- A. Employees may take ~~Reasonable Break Time~~ reasonable break time to express breast milk ~~once every~~

LACTATION POLICY

<u>Policy Number</u>	<u>Responsible Department</u>	<u>Effective Date</u>	<u>Page</u>
<u>11-089</u>	<u>People/Human Resources</u>	<u>February 27, 2024</u>	<u>Page 4 of 7</u>

~~three (3) hours, or less frequently as needed, for up to three (3) years following the birth of a child. This applies equally to employees who work remotely. Reasonable Break Time~~break time may be postponed for up to thirty (30) minutes if necessary to secure appropriate coverage of the employee's duties. ~~Employees may elect to express breast milk during any regular paid break(s) or mealtime instead of taking Reasonable Break Time, but they are not required to do so. Non-represented employees may reasonably adjust their work hours to make up their Reasonable Break Time with their supervisors' permission. Employees may not convert unpaid meal periods to paid by choosing to express milk during those periods., nor may employees convert time after or before their shift to paid time by choosing to express milk during these times and should be mindful of MTA's overtime policies.~~

- B. The MTA Agencies will make reasonable efforts to provide ~~Lactation Rooms~~lactation rooms in close proximity to employees in office and other fixed facilities and in close proximity to locations where field-based employees would be expected to stop over the course of their ordinary working day (e.g., clocking-in locations, break rooms, and locker rooms).
- C. Managers/Supervisors (working with Labor Relations and People/Human Resources, as appropriate) have discretion to make reasonable arrangements for employees' breaks, ~~including those employees that are required to clock in and out and may be a distance from a time clock during their breaks.~~
- D. Employees may express breast milk in any available ~~Lactation Room~~lactation room that is in close proximity to the employee's work location. Field-based employees may use available lactation facilities in close proximity to their location in the field, if available.

LACTATION POLICY

<u>Policy Number</u>	<u>Responsible Department</u>	<u>Effective Date</u>	<u>Page</u>
<u>11-089</u>	<u>People/Human Resources</u>	<u>February 27, 2024</u>	<u>Page 5 of 7</u>

- E. Employees must cooperate with the MTA's MTA Agencies' efforts to establish suitable Lactation Rooms and provide Reasonable Break Time for the purpose of expressing breast milk.
- F. Employees may utilize MTA Agencies' refrigerators (if they are available) to store expressed breast milk, but the MTA is Agencies are not responsible for ensuring the safekeeping of expressed breast milk in any refrigerator on its premises.
- G. Expressed breast milk must be stored in closed containers regardless of the method of storage and employees must take their expressed breast milk home each day.
- H. Employees wishing to use a Lactation Room and/or take Reasonable Break Time must notify their supervisor/Manager/Supervisor or an Agency-designated Lactation Room Coordinator at least fourteen (14) working days in advance, ideally prior to the employee returning to work following the birth of a child. Requests to take Reasonable Break Time should include a proposed break schedule. Agency-designated Lactation Room Coordinators must respond to requests for a room or other location to express breast milk within five days.
- I. Discrimination, harassment, or retaliation against employees because they request to express breast milk during the workday, or because they file a complaint of discrimination, harassment, or retaliation concerning such activity is strictly prohibited. Allegations of discrimination, harassment, or retaliation in violation of this Policy Directive should be reported to the MTA Chief People Officer or designee and then forwarded to EEO, if appropriate. All allegations will be investigated promptly and may result in appropriate discipline, up to and including termination.

I. ESSENTIAL FUNCTIONS

- A. Each Agencies Deputy Chief People Officer shall designate one or more Lactation Room coordinators to assist employees with identifying and scheduling the use of Lactation Rooms, including providing a list of available Lactation Rooms.
- B. Lactation Room coordinators are responsible for developing appropriate ways to manage access to Lactation Rooms and ensure privacy to those using the rooms.
- C. Managers/supervisors are responsible for ensuring compliance with this Policy, and should raise any concerns about availability/time spent under this Policy with their Human Resources/People Business Partner before addressing with the employee.

LACTATION POLICY

<u>Policy Number</u>	<u>Responsible Department</u>	<u>Effective Date</u>	<u>Page</u>
<u>11-089</u>	<u>People/Human Resources</u>	<u>February 27, 2024</u>	<u>Page 6 of 7</u>

~~D. Employees are responsible for keeping track of their time spent under this Policy, including communicating with their manager/supervisor concerning their availability and whether they need to make up time.~~

**LACTATION POLICY**

Policy Number	Responsible Department	Effective Date	Page
11-089	People/Human Resources	FEBRUARY 27, 2024	Page 7 of 7

VI. WAIVER

~~Unless otherwise indicated in All waivers to this Policy Directive, the Chief People Officer with the concurrence of~~ require the submittal of a written justification for review and consideration to the MTA Chief People Officer or designee with notification to MTA Chief Ethics, Risk & Compliance Officer ~~may grant a waiver to the provisions in this Policy Directive in the best interest of the MTA. Such waiver must be in writing and based on a written request from the employee's Agency Head or their designee.~~

VI.VII. POLICY LIFECYCLE

- A. This Policy Directive supersedes and replaces all previous MTA memoranda and policies regarding Lactation and the Expression of Milk in the Work PlaceWorkplace.
- B. As with all MTA policies, this Policy Directive does not constitute a contract, express or implied, and the MTA reserves the right to modify or rescind this Policy Directive at its sole discretion at any time.
- C. This Policy Directive will be reviewed every three (3) years and revised, as necessary.

II. EXHIBITS**VIII. Supporting Document—FORMS AND REFERENCES**

Exhibit A—: New York State Department of ~~Labor's Guidelines Regarding the~~Labor: Policy on The Rights of ~~Nursing Mothers~~Employees to Express Breast Milk in the Workplace.

Exhibit B: New York State Department of Labor: Your Rights as an Employee to Express Breast Milk at Work Place.

Agency Lactation Room Locations listing can be found on MTA Today.