Family and Medical Leave Act Administration Performance Audit

August 2015

Office of the Auditor
Audit Services Division
City and County of Denver

Timothy M. O’Brien, C.P.A.
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Report number: **A2015-003**
Ms. Karen Niparko, Executive Director
Office of Human Resources
City and County of Denver

Dear Ms. Niparko:

Attached is the Auditor’s Office Audit Services Division’s report of their audit of the City’s administration of the Family and Medical Leave Act (FMLA). The purpose of the audit was to examine the effectiveness of the Office of Human Resources’ (OHR) practices for overseeing and administering FMLA as well as the extent to which City employees and supervisors have an understanding of their rights and responsibilities related to taking family leave. The audit also examined practices employed by payroll staff in the Controller’s Office related to managing pay and benefits for employees on FMLA leave.

The audit found that OHR has established a dedicated Leave Team, which has developed a more comprehensive approach to the administration and oversight of FMLA. However, further steps are needed to overcome remaining program challenges. First, there are opportunities to eliminate duplication of effort between the OHR Leave Team and payroll staff within the Controller’s Office with regard to the administration of FMLA. Additionally, we found that there are limitations in the efficiency, reliability, and security of data systems used to manage FMLA. Finally, the City’s expanded definition of immediate family means that employees may take leave to care for an immediate family member who would not be covered under FMLA. However, the option to take leave to care for an extended family member is not explicitly outlined anywhere in existing OHR guidance or CSA rules. While OHR has made significant improvements to the administration of FMLA under the new Leave Team, addressing these remaining challenges will go a long way toward improving the management of FMLA in the City and County of Denver.

If you have any questions, please call Kip Memmott, Director of Audit Services, at 720-913-5000.

Sincerely,

Timothy M. O’Brien, C.P.A.
Auditor
To promote open, accountable, efficient and effective government by performing impartial reviews and other audit services that provide objective and useful information to improve decision making by management and the people.

We will monitor and report on recommendations and progress towards their implementation.

TMO/spc

cc: Honorable Michael Hancock, Mayor
    Honorable Members of City Council
    Members of Audit Committee
    Ms. Cary Kennedy, Deputy Mayor, Chief Financial Officer
    Ms. Janice Sinden, Chief of Staff
    Mr. David P. Edinger, Chief Performance Officer
    Ms. Beth Machann, Controller
    Mr. Scott Martinez, City Attorney
    Ms. Janna Young, City Council Executive Staff Director
    Mr. L. Michael Henry, Executive Director, Board of Ethics
AUDITOR’S REPORT

We have completed an audit of the City’s administration of the Family and Medical Leave Act. The purpose of the audit was to examine the effectiveness of the Office of Human Resources’ (OHR) practices for overseeing and administering FMLA as well as the extent to which City employees and supervisors have an understanding of their rights and responsibilities related to taking family leave. The audit also examined practices employed by payroll staff in the Controller’s Office related to managing pay and benefits for employees on FMLA leave.

This performance audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, General Powers and Duties of Auditor, and was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit found that OHR has established a dedicated Leave Team, which has developed a more comprehensive approach to the administration and oversight of FMLA. However, further steps are needed to overcome remaining program challenges. First, there are opportunities to eliminate duplication of effort between the OHR Leave Team and payroll staff within the Controller’s Office with regard to the administration of FMLA. Additionally, we found that there are limitations in the efficiency, reliability, and security of data systems used to manage FMLA. Finally, the City’s expanded definition of immediate family means that employees may take leave to care for an immediate family member who would not be covered under FMLA. However, the option to take leave to care for an extended family member is not explicitly outlined anywhere in existing OHR guidance or CSA rules. While OHR has made significant improvements to the administration of FMLA under the new Leave Team, addressing remaining challenges will go a long way toward improving the management of FMLA in the City and County of Denver.

We extend our appreciation to the Office of Human Resources, the Controller’s Office, and the personnel who assisted and cooperated with us during the audit.

Audit Services Division

Kip Memmott, MA, CGAP, CRMA
Director of Audit Services

To promote open, accountable, efficient and effective government by performing impartial reviews and other audit services that provide objective and useful information to improve decision making by management and the people. We will monitor and report on recommendations and progress towards their implementation.
Family and Medical Leave Act Administration
August 2015

The audit assessed the extent to which the Office of Human Resources has established an effective and efficient approach to the administration and oversight of FMLA in the City of Denver.

Background
The Family and Medical Leave Act (FMLA) is federal legislation that was enacted on February 5, 1993. FMLA entitles eligible employees of covered employers to take unpaid, job protected leave for specified family and medical reasons. Eligible employees are entitled to take up to twelve weeks of unpaid, job protected leave. In July 2014, the City and County of Denver’s Office of Human Resources (OHR) established an OHR Leave Team for the purpose of improving administration and management of FMLA across the City. However, a number of City agencies continue to maintain their own Human Resource (HR) departments that are responsible for administering FMLA and other types of leave for employees in their respective agencies.

Purpose
The objective of the audit was to assess the extent to which OHR and the Office of the Controller have established an effective and efficient process for the administration and oversight of FMLA.

Highlights
Our review of the City’s approach to the administration and oversight of FMLA yielded the following findings:

- While OHR has established a dedicated Leave Team that has developed a more comprehensive approach to the administration and oversight of FMLA, there are opportunities to eliminate duplication of effort between the OHR Leave Team and payroll staff within the Controller’s Office with regard to the administration of FMLA.
- City agencies with their own HR departments are administering FMLA in a way that is consistent with identified best practices; however improved coordination and consultation among HR departments could yield important opportunities to improve the consistency with which FMLA is administered across the City, as well as provide opportunities for HR teams to share useful tools and training and discuss difficult cases.
- The majority of City employees and supervisors have a basic understanding of FMLA, but more education is needed.
- Currently, there are limitations in the efficiency, reliability, and security of data systems used by OHR and payroll staff to manage FMLA. OHR is exploring options to acquire an automated HR data system that should address many of the limitations presented by current manual data systems and processes.
- OHR is not currently conducting FMLA data analytics to identify trends that might be used to inform program strategies, identify potential abuse, and help with full-time equivalent planning.
- Under the City’s definition of immediate family, employees are entitled to take leave to care for an extended family member who would not be covered by FMLA. However, City Medical Leave is not explicitly outlined in OHR guidance or CSA rules. As a result, City Medical Leave is not being implemented consistently by HR teams across the City, and employees have limited knowledge of their right to take leave to care for extended family.
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INTRODUCTION
& BACKGROUND

Overview and History of the Family and Medical Leave Act in the City

The Family and Medical Leave Act (FMLA) was enacted on February 5, 1993. FMLA
entitles eligible employees of covered employers to take up to twelve weeks of unpaid,
job protected leave for specified family and medical reasons.¹ FMLA leave can be taken
as either a continuous block of time or intermittently when medically necessary within a
twelve-month period. The amount of leave that is actually taken is counted toward the
twelve weeks of allowable leave. Congress identified a lack of employment policies to
accommodate working parents, employees caring for their families, and an aging
workforce that could force individuals to choose between job security and parenting
and also found that there was inadequate job security for employees who had serious
health conditions that prevented them from working for temporary periods. Therefore,
the FMLA would balance the demands of the workplace with the needs of families,
promote the stability and economic security of families, and promote national interest in
preserving family integrity.²

Eligible Employees – An eligible employee is one who:

- Works for a covered employer;
- Has worked for the employer for at least twelve months;
- Has at least 1,250 hours of service for the employer during the twelve-month
  period immediately preceding the leave; and
- Works at a location where the employer has at least fifty employees within
  seventy-five miles.

Entitlement To Leave – Eligible employees may take up to twelve work weeks of leave in
a twelve-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the
  employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the
  essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or
  parent is a military member on covered active duty or call to covered active
  duty status.³

² Ibid.
³ Ibid.
When the FMLA was enacted in 1993, it applied to all private sector employers with fifty or more employees and all public agencies including local, state, and federal government agencies regardless of the number of employees. As a public agency, the City and County of Denver is included under the federal guidance and established sections of Career Service Rule 11 to meet the requirements outlined by FMLA.4

**Creation of the Office of Human Resource Leave Team** - The Office of Human Resources (OHR) established the OHR Leave Team in July 2014 and operations began in October 2014 as a pilot project. The Leave Team administers and manages City leave programs including FMLA. Prior to July 2014, FMLA was handled by Human Resources (HR) technicians, where each technician was responsible for overseeing and managing leave for a particular group of agencies. According to the OHR Leave Team, under this structure, FMLA administration was not always managed consistently or in a timely manner. OHR management recognized that FMLA is a complex issue to manage; therefore, the OHR Leave Team was developed to consolidate and centralize the oversight and administration of FMLA. The primary goal of the team is to ensure that FMLA is managed more effectively.

The team consists of a Leave Team Manager and two FMLA Specialists. The organizational structure of the OHR and FMLA administration is reflected in Figure 1.

**Figure 1. OHR’s FMLA Organizational Structure**

The OHR Leave Team manages FMLA for multiple agencies including some independent agencies. A list of the agencies is in Table 1.

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4 Career Service rules govern employment with the City and County of Denver including information about pay, classification, dispute resolution, training, and other personnel policies. Career Service Rule 11, Sections 11-150 through 11-160, January 7, 2013, specifically govern the Family and Medical Leave Act Policy.
Table 1. Agencies Supported by OHR Leave Team

<table>
<thead>
<tr>
<th>Agencies</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Arts and Venues</td>
<td>Excise and Licenses</td>
</tr>
<tr>
<td>Auditor’s Office</td>
<td>General Services</td>
</tr>
<tr>
<td>Board of Adjustments</td>
<td>Mayor’s Office</td>
</tr>
<tr>
<td>Board of Ethics</td>
<td>Mayor’s Office of Education and Children</td>
</tr>
<tr>
<td>City Attorney</td>
<td>Office of Economic Development</td>
</tr>
<tr>
<td>Clerk and Recorder</td>
<td>Office of Emergency Management</td>
</tr>
<tr>
<td>Civil Service Commission</td>
<td>Office of the Independent Monitor</td>
</tr>
<tr>
<td>Community Planning and Development</td>
<td>Parks and Recreation</td>
</tr>
<tr>
<td>Finance</td>
<td>Public Works</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>Technology Services</td>
</tr>
</tbody>
</table>

Source: Developed by the Auditor’s Office based on source information from the OHR Leave Team.

City Agencies with Their Own HR Teams

While OHR has established a leave team to manage FMLA and other types of leave throughout the City, a number of agencies maintain their own HR teams that are responsible for overseeing and administering leave and other HR issues for employees in their agencies. These agencies include the Auditor’s Office, Denver International Airport (DIA), the Denver Department of Human Services (DHS), Denver County Court, Denver Public Library, and the Department of Safety including Police, Fire, and Sheriff. Each of these agencies operates with varying levels of independence from the OHR Leave Team. For example, while DHS and DIA HR personnel manage FMLA for their respective agencies, they report to the Executive Director of OHR, attend regular meetings with the OHR Leave Team, and follow similar procedures for managing FMLA. The Auditor’s Office maintains its own HR function but in March 2015 agreed that the OHR Leave Team could administer FMLA for its employees. The Denver County Court, Denver Public Library, and Department of Safety are wholly independent from OHR, managing HR issues including the administration of FMLA leave with occasional consultation from the OHR Leave Team. Additionally, uniformed employees in the Department of Safety are not subject to Career Service Administration (CSA) rules as they are governed by collective bargaining agreements.5 While Department of Safety employees are entitled to FMLA under federal law, existing collective bargaining agreements allow administration of FMLA to vary from what is outlined in current CSA rules. For example, the Denver Fire Department does not

require employees to use the FMLA designation. This means that if an employee has a large amount of sick leave the employee can use his or her available sick leave for an extended illness instead of applying for FMLA as would typically be required by other City agencies.

Key Stakeholders in the FMLA Process

There are several key stakeholders involved with the management and administration of FMLA in the City. Below is an overview of the stakeholders, their responsibilities, and tools utilized for managing leave in the City.

**OHR Leave Team** - The OHR Leave Team is a dedicated team tasked with lead responsibility for administering FMLA in the City in accordance with federal FMLA regulations. As noted in Table 1, the OHR Leave Team is responsible for the initiation, processing, monitoring, and management of FMLA for twenty City agencies. The OHR Leave Team also provides resources, customer service, and education and training to fit the needs of City employees as it relates to FMLA. The OHR Leave Team has developed policies and procedures that outline their processes for verifying employee eligibility, obtaining and reviewing required documentation (such as medical certifications from doctors that detail the medical necessity of the condition and the anticipated frequency of absences), approving new leave cases, and tracking and monitoring FMLA usage against allowable leave and certified parameters. The OHR Leave Team uses a variety of tools to track and manage FMLA including Excel spreadsheets and Outlook reminders.

**Controller’s Office** - Payroll staff within the Controller’s Office are responsible for managing pay and benefits for employees on FMLA leave. They enter all relevant FMLA information into the Kronos data system, which is the City’s timekeeping system used to track employees’ hours and administer pay. Payroll staff work with the employee to ensure they plan enough paid leave to maintain benefits such as health insurance while on leave.

**Supervisors** - Supervisors notify the OHR Leave Team when they become aware of an employee with a potential need for FMLA leave. Additionally, supervisors are responsible for notifying payroll staff when an employee incurs intermittent FMLA absences for entry into Kronos. Supervisors must also manage FMLA-related productivity and workload challenges in their departments.

**Employees** - Employees are responsible for notifying the OHR Leave Team of their need for FMLA leave. Employees must complete and return all required forms and documents to initiate their leave cases. For continuous leave, an employee is responsible for working with payroll staff to develop a leave calendar detailing the specific dates the employee anticipates missing work. For intermittent leave, an employee is responsible for communicating intermittent absences to the OHR Leave Team for tracking and

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7 For example, intermittent leave may be used by an employee needing to take a few days off each month for a chronic medical condition.
approval. Employees must also notify their supervisors of all absences in accordance with their agency’s call-in policy.

There are several key processes conducted by the OHR Leave Team and payroll staff to manage FMLA in the City. Both the OHR Leave Team and payroll staff handle documents containing confidential medical information for employees who apply for FMLA. Figure 2 illustrates the current process for initiating new FMLA leave cases, tracking FMLA usage, and recording FMLA usage into the Kronos data system.

**Figure 2. Key Processes for the Management of FMLA**

<table>
<thead>
<tr>
<th>Initiating New FMLA Cases</th>
</tr>
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<tbody>
<tr>
<td>• Employee notifies OHR Leave Team of need for FMLA leave</td>
</tr>
<tr>
<td>• OHR Leave Team verifies eligibility and sends employee required forms</td>
</tr>
<tr>
<td>• OHR Leave Team reviews completed forms and sends leave case approval to payroll staff to set up new FMLA case in Kronos</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tracking FMLA Leave Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>• OHR Leave Team tracks each FMLA absence on a tracking spreadsheet and reviews against allowable leave and certified parameters</td>
</tr>
<tr>
<td>• OHR Leave Team reviews absence patterns for indications of abuse</td>
</tr>
<tr>
<td>• OHR Leave Team sends approval of FMLA absence to supervisor</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recording FMLA Leave Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Continuous Leave - Payroll staff enter FMLA absences into Kronos in accordance to a planned leave calendar developed with the employee</td>
</tr>
<tr>
<td>• Intermittent Leave - Payroll staff enter FMLA absences into Kronos based on absences reported by supervisor</td>
</tr>
</tbody>
</table>

**Source:** Figure developed by Auditor’s Office based on source information provided by the OHR Leave Team and payroll staff.

**FMLA Use across the City**

We performed data trend analysis on FMLA data in Kronos from 2012 to 2014. In 2014, City employees used over 175,000 hours of FMLA, which consisted of over 1,700 open FMLA cases across 1,200 individual employees as some employees had multiple FMLA cases. In 2014, approximately 70 percent of the FMLA hours were used for continuous leave and approximately 30 percent of the hours were for intermittent leave. This total usage was relatively consistent with previous years. Approximately 10 percent of all City employees had an open FMLA case during 2014 and some agencies had up to 25 percent of their employees with open FMLA cases at any one time. As seen in Figure 3, the top five City agencies with the highest percentage of employees with FMLA cases

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8 Data in Kronos is limited and does not include FMLA usage for uniformed personnel from the Department of Safety.
during 2014 were the Department of Safety (Other), the Office of the Independent Monitor, DHS, Denver County Court, and the Office of Human Resources.9,10

**Figure 3.** Percentage of Employees with FMLA Cases in 2014 by Agency

Source: Kronos Data System.

We also administered a survey to City employees regarding FMLA.11 As can be seen in Table 2, the majority of survey respondents who indicated they had taken FMLA are women (69 percent). Among FMLA users, 69 percent were between the ages of 41 and 64, and 63 percent have worked for the City for ten years or more.

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9 The Department of Safety (Other) category includes all CSA employees from the Department of Safety agencies except for the Fire Department, Police Department, and Sheriff’s Department as we broke those agencies out to be shown separately. The data does not include FMLA usage for uniformed personnel from the Department of Safety.

10 The Office of the Independent Monitor only had eight employees in 2014, but two of those employees had FMLA cases causing its percentage of employees with FMLA cases in 2014 to be high.

11 We received 2,297 responses to the survey.
Table 2. FMLA Users

<table>
<thead>
<tr>
<th>Gender</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>31%</td>
</tr>
<tr>
<td>Female</td>
<td>69%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Age</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>18-25</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>26-30</td>
<td>4%</td>
</tr>
<tr>
<td>31-40</td>
<td>25%</td>
</tr>
<tr>
<td>41-50</td>
<td>33%</td>
</tr>
<tr>
<td>51-64</td>
<td>36%</td>
</tr>
<tr>
<td>65 or older</td>
<td>2%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Years Working for the City</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-4 years</td>
<td>13%</td>
</tr>
<tr>
<td>5-9 years</td>
<td>25%</td>
</tr>
<tr>
<td>10-14 years</td>
<td>17%</td>
</tr>
<tr>
<td>15-25 years</td>
<td>34%</td>
</tr>
<tr>
<td>25 years or more</td>
<td>12%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FMLA Case Administered by*</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>OHR Leave Team</td>
<td>36%</td>
</tr>
<tr>
<td>Agency HR Personnel</td>
<td>68%</td>
</tr>
<tr>
<td>Payroll</td>
<td>23%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
</tr>
</tbody>
</table>

Source: FMLA Survey Data.

Note: Asterisk (*) denotes respondents could select more than one choice as they may have had different aspects of their leave case administered by multiple groups (i.e.: OHR Leave Team and Payroll).

Finally, 40 percent of survey respondents indicated they took FMLA for their own personal health issue; 25 percent took FMLA for maternity or paternity leave; and 15 percent took leave to care for a sick parent. Figure 4 shows the reasons survey respondents took FMLA while employed by the City.
City and County of Denver

Figure 4. Reasons for Taking FMLA (All FMLA Users)

Source: FMLA Survey Data.

City Medical Leave

The City and County of Denver has an expanded definition of immediate family that goes beyond the definition of family as outlined under FMLA. The City’s definition includes grandparents, in-laws, siblings, domestic partners, and the immediate family of domestic partners. When City employees take leave to care for an extended family member who would not be covered under FMLA, it is classified as City Medical Leave. According to the OHR Leave Team, all of the same rules outlined by FMLA are applied to City Medical Leave, and City employees are entitled to up to twelve weeks of unpaid, job-protected leave to care for an extended family member. Under current procedures for administering leave, if an employee takes leave to care for a family member who would be covered by both FMLA and City Medical Leave, the two types of leave will run concurrently. However, if an employee first takes leave for a family member covered by City Medical Leave but not by FMLA, the employee may be entitled to use each type of leave consecutively. For example, if a City employee were to take leave to care for a family member covered by the City’s definition of immediate family, but not covered by FMLA (e.g., caring for a sick grandparent), he or she would be entitled to twelve weeks

of City Medical Leave. If, later in that same year, the employee were to encounter a situation that qualified for FMLA (e.g., her own pregnancy), she would be entitled to an additional twelve weeks of leave under federal legislation, for a total of up to twenty-four weeks of leave within a single twelve-month period.

The City's definition of immediate family was established in 1984 and thus predates FMLA which was enacted in 1993. When federal FMLA legislation was first implemented by the City and County of Denver, the decision was made that the City's expanded definition of immediate family should be applied when considering family and medical leave options for eligible employees.
SCOPE

The audit examined the effectiveness of the Office of Human Resources’ practices for overseeing and administering FMLA as well as the extent to which City employees and supervisors have an understanding of their rights and responsibilities related to taking leave. Though not originally part of our scope, the audit also examined practices employed by payroll staff in the Controller’s Office related to tracking leave in Kronos and administering pay and benefits for employees on FMLA leave, as this is a key component of how FMLA is managed in the City that was unknown at the commencement of the audit.

OBJECTIVE

The objective of the audit was to determine whether OHR has established an effective and efficient process for the oversight and administration of FMLA, which includes:

- Evaluating the extent to which OHR has established efficient and effective procedures for administering FMLA
- Evaluating how agencies with their own leave teams administer FMLA in comparison to OHR
- Evaluating the security of FMLA data systems
- Determining major trends in FMLA use across the City and how that information is used to inform FMLA policies, administration, and oversight
- Evaluating the extent to which employees and supervisors understand their rights, roles, and responsibilities as it relates to taking, managing, and tracking FMLA leave

We also evaluated the extent to which payroll staff in the Controller’s Office have developed an effective and efficient process for managing FMLA, including the administration of pay and benefits for employees on FMLA.

METHODOLOGY

We applied various methodologies during the audit process to gather and analyze information pertinent to the audit scope and to assist with developing and testing the audit objectives. The methodologies included the following:

- Interviewed staff from OHR’s new leave team to gain an understanding of the team’s current efforts related to the administration of FMLA
• Conducted structured interviews with each of the agencies with their own HR teams regarding their approach to administering FMLA

• Reviewed and analyzed the new guidelines and workflow developed by the OHR Leave Team related to the administration of FMLA

• Interviewed payroll staff in the Controller’s Office regarding their processes for recording leave time and managing pay and benefits for employees on FMLA

• Conducted research to identify best practices and strategies regarding the administration of FMLA

• Interviewed officials in other states regarding their approach to managing the intersection of state family leave policies and FMLA

• Assessed the reliability of available data in Kronos on FMLA and City Medical Leave

• Analyzed data in Kronos to identify trends in FMLA and City Medical Leave usage across the City

• Conducted testing on a random sample of FMLA cases to determine the extent to which case data was entered correctly into Kronos

• Conducted a survey with City employees:

  Between April 23 and May 8, 2015, we conducted a web-based survey with all City and County of Denver employees who have a denver.gov email address. We used a Citywide email distribution list to email the survey link to all employees on the distribution list. According to Technology Services, the distribution list included 10,601 City and County of Denver employees. We received a total of 2,297 responses, which represents a response rate of 23 percent. The survey was created using Survey Monkey and included questions about employees’ knowledge of FMLA, perceptions of FMLA, experiences with FMLA, and employees’ and supervisors’ understanding of their responsibilities under FMLA.

  After sending the survey, we learned that two agencies did not receive the email containing the survey. Representatives from Denver Public Library (DPL) informed us that DPL employees use Gmail instead of Outlook and are not included in the Citywide email distribution list. DPL HR staff then redistributed the survey to all DPL employees using an internal DPL email distribution list. DIA employees with a flydenver.com email address also did not receive the survey due to restrictions set for the DIA email user group. However, the change request to grant distribution rights could not be processed prior to the end of the fieldwork phase of our audit. As a result, 1,008 DIA employees with a flydenver.com email address are not represented in the survey sample.

  Using a web-based survey and allowing employees to enter their responses into an electronic instrument created an automatic record of the survey responses and eliminated the errors that would be associated with a manual data entry process. However, the quality of survey data can be affected by nonsampling errors, which include variations in how respondents interpret questions,
respondents’ willingness to offer accurate responses, and data collection and processing errors. To minimize such errors, we included the following steps in developing the survey and in collecting and analyzing survey data:

○ In developing the survey, we asked Audit Services Division (ASD) staff in the Auditor’s Office to provide feedback about the possible content, structure, and approach to administering the survey.

○ We pre-tested a draft version of the survey instrument with staff from two audit teams within ASD.

○ We then conducted a focus group consisting of staff from two ASD teams who provided feedback on needed revisions to the survey.

○ The survey instrument was reviewed and vetted by Senior Management in OHR as well as the OHR Leave Team, and further revisions were made in response to their comments.

○ OHR also provided the draft survey instrument to the Career Service Authority Board and the City Attorney’s Office for their review.

○ Prior to sending the survey, the Mayor’s Office was informed that the survey would be sent to all City employees.
FINDING 1

While the Office of Human Resources Has Taken Significant Steps To Improve the Oversight and Administration of FMLA, Further Actions Are Needed To Overcome Remaining Challenges

The Office of Human Resources (OHR) has established a dedicated Leave Team, which has developed a comprehensive approach to the administration and oversight of FMLA. While the OHR Leave Team’s policies and procedures for the administration of the Family and Medical Leave Act (FMLA) are consistent with federal law and align with industry best practices, opportunities exist for OHR to continue to enhance FMLA program administration. For example, there are opportunities to eliminate duplication of effort between the OHR Leave Team and payroll staff with regard to the administration of FMLA. Improved coordination and consultation across HR departments could also yield important opportunities to improve the consistency with which FMLA is administered across the City as well as to provide opportunities for HR teams to share useful tools and training and discuss difficult cases. Further, we found that there are currently limitations in the efficiency, reliability, and security of data systems used to manage FMLA. In addition, the OHR Leave Team is not currently conducting FMLA data analytics to identify trends that might be used to inform program strategies, identify potential abuse, and help with full-time equivalent planning. Finally, developing performance metrics would be helpful in guiding the team’s work and ensuring that they are meeting identified and measurable goals.

The OHR Leave Team Has Established a Comprehensive Approach to Administering and Overseeing FMLA

The OHR Leave Team has enhanced several areas of the City’s FMLA management process. The OHR Leave Team has developed policies and procedures that incorporate the enhancements and are consistent with federal law and generally align with industry best practices.

OHR Has Enhanced the Process for Managing FMLA under the New Leave Team

In July 2014, OHR formed a dedicated leave team responsible for administering and managing FMLA for the City as a pilot project. The new OHR Leave Team developed written policies and procedures to enhance the management of FMLA in the City by implementing industry best practices, streamlining forms and paperwork, conducting more detailed reviews of medical certifications, and closely monitoring FMLA usage.

- Dedicated Leave Team - The creation of the OHR Leave Team centralized the oversight and administration of FMLA. The Leave Team Manager has a background as a registered nurse, which provides expertise to understand the medical aspects of FMLA issues. The two FMLA Specialists, also referred to as
Leave Team Specialists, are experts in FMLA administration, as they were brought over from a business management consulting group that specializes in absence and health care solutions.

- **Policies and Procedures** - The OHR Leave Team has developed written policies and procedures to ensure consistent administration and management of FMLA.

- **Standardized Forms** - Employees are required to complete various forms to initiate FMLA leave. The OHR Leave Team has streamlined many of these forms in order to reduce the amount of paperwork and eliminate the need to provide duplicative information on multiple forms. This has resulted in an easier and more straightforward process for employees. In addition, the OHR Leave Team also has branded the various FMLA forms with the City and County of Denver Office of Human Resources logo in order to minimize the risk of fraud or abuse.

- **Medical Certifications** - The OHR Leave Team has developed more detailed procedures for obtaining and reviewing medical certifications. Specifically, if medical certifications are not received directly from the health care provider, the OHR Leave Team will contact the health care provider to confirm the legitimacy of the paperwork. Utilizing the Leave Team Manager’s medical expertise, the OHR Leave Team will also reach out to the health care provider for needed clarification on any incomplete, ambiguous, or unclear information on the medical certification. The OHR Leave Team also ensures that the medical certification includes separate parameters for absences for incapacity due to condition flare-ups and absences for doctor’s appointments, as these two types of absences are inherently different.

- **Intermittent Usage Monitoring** - The OHR Leave Team has developed procedures to track and monitor FMLA usage. The OHR Leave Team tracks every instance of FMLA usage with the use of internally developed spreadsheets. They review all intermittent FMLA usage to determine if it is in alignment with the allowable leave and medically certified parameters. While the OHR Leave Team is not conducting data analytics to identify trends and potential abuse across all FMLA cases, they do review intermittent FMLA usage for potential patterns of abuse on individual cases.

### The OHR Leave Team’s FMLA Policies and Procedures Are Consistent with Federal Law and Generally Align with Industry Best Practices

The federal FMLA regulation provides rules regarding eligible employees, the amount and types of allowable leave, notification requirements, medical certifications, and other pertinent requirements. The OHR Leave Team has developed policies and procedures to help them manage FMLA in accordance with the federal FMLA regulations. The policies and procedures include guidance related to the workflow that should be followed in the course of administering FMLA such as initiating FMLA cases, tracking FMLA

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13 Medical certifications from doctors detail the medical necessity of the condition and the anticipated frequency of absences.

usage against allowable leave and certified parameters, and recording FMLA usage in the Kronos data system.

We reviewed the OHR Leave Team’s policies and procedures for managing FMLA and found that they appear to be consistent with the federal regulations. For example, the Leave Team’s policies and procedures are designed to check for eligibility in accordance with federal legislation that details eligibility requirements such as being employed for at least twelve months and having worked at least 1,250 hours during the twelve-month period immediately preceding the commencement of leave.15

While the federal regulations provide rules and requirements regarding compliance with FMLA, they do not provide specific guidance on how best to develop and implement processes to manage and administer FMLA to ensure compliance with the law. In order to identify best practices for the management and administration of FMLA, we researched articles and literature from human resource groups, employment consulting agencies, and legal case studies. Our research determined there is consensus among industry experts with regard to the following key best practices:16

- Developing and maintaining formal FMLA policies and procedures
- Staying abreast of FMLA regulations and updates
- Educating employees and supervisors about their rights and responsibilities under FMLA
- Requiring medical certifications from physicians at least once per FMLA cycle
- Ensuring that certifications are complete and include detailed information
- Reviewing certifications for signs of fraud
- Requiring new certifications when the medical condition or planned frequency of use changes
- Monitoring FMLA usage against allowable leave
- Proactively informing employees that they may be eligible for FMLA
- Taking steps to protect the security of FMLA files
- Providing written notifications of FMLA approvals or denials to employees

We reviewed the OHR Leave Team’s policies and procedures, interviewed the team, and observed the team as members performed selected tasks to determine if their processes are in alignment with the noted best practices. The OHR Leave Team has developed formalized FMLA procedures, stays up-to-date on FMLA regulations, and has

started conducting training for agency managers. In addition, the OHR Leave Team requires medical certifications for all leave cases, reviews them for completeness and signs of fraud, and requires new certifications when the medical condition or planned frequency of absence changes. The OHR Leave Team informs employees of their FMLA rights when they become aware of the potential need for medical leave, provides written approvals and denials of leave cases, and monitors FMLA usage against allowable leave. We found that, in general, the OHR Leave Team’s policies and procedures are in alignment with best practices.

**Payroll’s Procedures for the Management of FMLA Could Be Improved and Streamlined**

Payroll staff in the Controller’s Office are involved with certain aspects of FMLA administration in the City. However, payroll staff’s written FMLA policies and procedures are not comprehensive and contain incorrect information. In addition, there are opportunities to eliminate process inefficiencies and duplication of effort between the OHR Leave Team and payroll staff.

**Payroll’s Written FMLA Administration Policies and Procedures Are Incomplete and Inaccurate**

Since payroll staff are responsible for entering FMLA information into Kronos, we obtained and reviewed payroll staff’s written FMLA administration policies and procedures to determine whether adequate protocols are in place. Our review of the policies and procedures identified substantial opportunities for enhancement.

- The policies and procedures mainly focus on the functionality of Kronos and do not provide an overview of payroll staff’s roles and responsibilities as they relate to the management and administration of FMLA. For instance, the manual does not discuss the process for obtaining case and usage information from the OHR Leave Team, reviewing information to determine what data needs to be entered into Kronos, coordinating with supervisors and the OHR Leave Team, or securely maintaining FMLA documentation.

- The policies and procedures do not explicitly discuss which leave codes should be applied when an employee takes leave that is covered by FMLA and when an employee takes leave to care for a family member that is only covered by City Medical Leave but not by FMLA.

- The policies and procedures incorrectly characterize the interaction between FMLA and City Medical Leave. The policies and procedures state that when an employee exhausts twelve weeks of federal FMLA first, the employee can still use another twelve weeks of City Medical Leave. This characterization is a reversal of how the two types of leave interact. In fact, employees are only allowed an additional twelve weeks of leave under FMLA if City Medical Leave is utilized first and the employee later has a medical condition that qualifies under the federal definition later in the same year.
We recommend that payroll staff develop more robust written policies and procedures related to FMLA administration that, at a minimum, provide an overview of payroll staff’s roles and responsibilities as they relate to the administration of FMLA, specific workflow processes for determining what needs to be entered into Kronos, applying leave codes to FMLA and City Medical Leave usage in Kronos, coordinating with the OHR Leave Team and supervisors, and saving documentation securely.

Opportunities Exist To Eliminate Process Inefficiencies between the OHR Leave Team and Controller’s Office Payroll Staff

The OHR Leave Team developed its current policies and procedures to fit into the preexisting processes established by payroll staff prior to the formation of the OHR Leave Team. While the OHR Leave Team’s policies and procedures for managing and administering FMLA are consistent with federal law and generally align with industry best practices, there are opportunities to further streamline the administration of FMLA and eliminate process inefficiencies between the OHR Leave Team and payroll staff.

Intermittent FMLA Absence Reporting Process Is Inefficient - The process for reporting intermittent FMLA absences is inefficient and increases the risk for discrepancies between those absences reported to the OHR Leave Team for tracking and approval purposes and those absences reported to payroll staff for entry into the Kronos data system. This limits the OHR Leave Team’s ability to adequately monitor and track FMLA usage.

An employee incurring an intermittent FMLA absence is required to notify both the OHR Leave Team for tracking and approval purposes, and their immediate supervisor in accordance with their agency’s normal call-in policies for absences. The OHR Leave Team reviews the absence against allowable leave and certified parameters before sending an approval back to the employee’s supervisor. The supervisor then notifies payroll staff of the intermittent FMLA absence and payroll staff in turn enter the appropriate information into Kronos. This process is illustrated in Figure 5.

Figure 5. Current Intermittent FMLA Absence Reporting Process

Source: Figure developed by Auditor’s Office based on source information provided by the OHR Leave Team and payroll staff.
The intermittent FMLA reporting process increases the risk of discrepancies between FMLA absences reported to the OHR Leave Team and those absences reported to payroll staff for coding into Kronos. For instance, occasionally supervisors will report intermittent FMLA absences to payroll staff without the OHR Leave Team first being notified of the absence. When the OHR Leave Team is bypassed in this way, they are unable to properly track and review FMLA usage against allowable leave and certified parameters. Conversely, supervisors occasionally neglect to report intermittent FMLA absences to payroll staff even though the OHR Leave Team approved the absence. In these situations, the FMLA absences are not properly recorded in Kronos and available FMLA banks are not properly reduced in the timekeeping system.

The OHR Leave Team has developed reconciliation procedures to identify and resolve discrepancies between FMLA hours recorded by the OHR Leave Team and those FMLA hours entered into Kronos by payroll staff. The OHR Leave Team periodically reviews data on FMLA hours in Kronos and reconciles it to FMLA hours recorded in their internal tracking documents. This reconciliation process happens at a minimum of every six months when a recertification period occurs, but may occur more frequently on cases with high leave use. An OHR Leave Team Specialist indicated that this reconciliation procedure identifies discrepancies in approximately 20 percent of cases. According to the OHR Leave Team Specialist, resolving the discrepancies often involves working with supervisors to communicate with payroll staff to ensure that the necessary adjustments are made within Kronos. The OHR Leave Team Specialist further indicated that this process can be time consuming, often requiring multiple follow-ups with supervisors to ensure they send the necessary communications to payroll staff. Identifying and resolving the discrepancies caused by the redundancies in the intermittent FMLA reporting process creates extra work that can be a drain on time and resources.

The reporting process could be further streamlined if the OHR Leave Team communicated their approval of intermittent FMLA absences directly to payroll staff for entry into Kronos. This would eliminate the unnecessary step of the OHR Leave Team sending their approvals to the employee’s supervisor in order to have the supervisor in turn communicate the absences to payroll staff. Not only would this approach streamline the FMLA reporting process for employees on intermittent leave, it would also structure the process in such a way as to limit the potential for discrepancies, since the OHR Leave Team and payroll staff would be communicating directly with each other instead of utilizing supervisors as an intermediary. The suggested streamlined process is illustrated in Figure 6.
Figure 6. Proposed Streamlined Intermittent FMLA Absence Reporting Process

Source: Figure developed by Auditor’s Office based on source information provided by the OHR Leave Team and payroll staff.

Note: Asterisk (*) denotes that the OHR Leave Team also notifies the employee and the supervisor of the FMLA absence approval.

In addition, we noted duplication of efforts between the OHR Leave Team and payroll staff with regard to tracking intermittent FMLA usage against allowable leave and certified parameters. The OHR Leave Team tracks intermittent FMLA usage with spreadsheets and reviews each intermittent usage against the parameters set forth in the medical certifications that stipulate how frequent the doctor anticipates the employee will miss work. However, payroll staff also review intermittent FMLA absences against certified parameters before entering the information into Kronos. The value of enhanced approaches to FMLA administration is diminished when two City agencies are expending resources to conduct the same or similar work.

We recommend that the OHR Leave Team should work with payroll staff to streamline the intermittent FMLA absence reporting process and eliminate duplication of efforts related to reviewing FMLA usage against certified parameters. Additionally, as the roles and responsibilities of the new OHR Leave Team continue to evolve, the OHR Leave Team should work with payroll staff to identify other areas of the FMLA administration process that can be further streamlined.

Opportunities Exist To Improve Coordination and Consultation among HR Teams Responsible for Administering FMLA across the City

As noted in the report introduction, there are a number of City agencies with their own HR teams and some that administer FMLA for their employees independently of the OHR Leave Team. Though these agencies are not necessarily using all of the same tools and procedures as the OHR Leave Team, we found that each of them is administering FMLA in a way that is consistent with identified best practices. Moreover, several of the teams
have developed their own tools and training to ensure that FMLA is administered effectively within their agency and to ensure employees and supervisors are kept apprised of their rights and responsibilities under FMLA. While these HR departments may continue to operate largely independently from the OHR Leave Team, creating mechanisms for increased coordination and consultation across these HR teams can provide important opportunities for information sharing and allow HR personnel to capitalize on one another’s experience and expertise with regard to administering FMLA. In addition, consistent coordination can provide opportunities to share best practices such as approaches to training, tools for communicating with employees, and approaches to difficult cases. Finally, regular coordination and collaboration can also provide an important means to ensure that FMLA is administered effectively and consistently across the City.

City Agencies with Their Own HR Teams Are Administering FMLA in a Way That Is Consistent with Best Practices

Industry experts and human resources advisory groups have identified a number of best practices that are key to efficient and effective management of FMLA. We conducted structured interviews with HR representatives from all of the City agencies with their own HR teams including Denver County Court, Denver Department of Human Services (DHS), Denver International Airport (DIA), Denver Public Library, the Auditor’s Office, and three representatives from the Department of Safety. While there are differences in how each of the City agencies with their own HR teams administers FMLA, all City agencies reported that they are managing FMLA in a way that is consistent with identified best practices. Examples of these practices are outlined below:

- Each of the agencies reported that they stay abreast of FMLA regulations through a variety of sources including consulting staff in OHR, consulting the City’s Denver.One.Team intranet site, reviewing information from external sources such as the Department of Labor website, consulting applicable CSA rules, and reading HR industry blogs and newsletters.
- Leave teams reported educating employees and supervisors about their rights and responsibilities under FMLA through a variety of means, but all agencies reported that, at minimum, they provide one-on-one education to those employees who apply for FMLA.
- All agencies reported reviewing certifications to ensure they are complete and contain sufficiently detailed information, review certifications for signs of fraud, and follow-up directly with physicians to get further clarification when necessary.


OHR began administering FMLA for the Auditor’s Office in March 2015. We conducted structured interviews with HR representatives regarding their FMLA practices prior to March 2015.
Six of the agencies indicated that they assess FMLA cases for Americans with Disabilities Act (ADA) eligibility on an as-needed basis, while two of the agencies reported that they have identified specific circumstances under which they will evaluate the case for ADA.¹⁹

**Several City Agencies Have Developed Their Own FMLA Tools and Training**

Some of the agencies with their own HR departments have also developed tools and training to ensure that FMLA is administered effectively within their agencies. While all of the agencies reported providing one-on-one guidance to those employees who apply for FMLA, seven of the agencies reported that they have also developed additional educational tools to help ensure employees and supervisors are kept apprised of their rights and responsibilities under FMLA. These include offering team trainings, developing computer desktop reference tools, and providing FMLA reference materials. For example, while all agencies reported providing general FMLA guidance to supervisors, one agency also reported that they provide targeted one-on-one training to supervisors when one of their employees goes on FMLA. HR representatives walk through the process with those supervisors who are new to FMLA and clarify the roles and responsibilities of supervisors, HR staff, and payroll staff with regard to monitoring and managing leave. Another agency has developed department-wide training videos for both employees and supervisors covering a variety of leave policies. All new hires are required to watch the video as part of their new employee orientation. This same agency has also developed an FMLA Frequently Asked Questions (FAQ) document that covers a variety of questions that supervisors may have with regard to FMLA. The FAQ document also provides guidance on what supervisors should do in response to a variety of FMLA-related scenarios.

**Current Opportunities for Coordination and Consultation of FMLA Administration across the City Are Limited**

Currently, there are limited opportunities for regular coordination and collaboration between HR teams, but several of the HR representatives we spoke with expressed an interest in increasing the level of consultation and coordination between HR departments across the City. According to HR personnel at one agency, prior to 2010, HR representatives from all City agencies used to meet regularly to discuss common issues and concerns. They explained that these meetings helped them to stay up-to-date on

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¹⁹ Under federal law, when employees need time off because of a medical or disability-related issue, they may have rights to both ADA and FMLA. The Americans with Disabilities Act (ADA) is a federal law that protects the rights of people with disabilities by eliminating barriers to their participation in many aspects of working and living in America. In particular, Title I of the ADA prohibits covered employers from discriminating against people with disabilities in the full range of employment-related activities, from recruitment to advancement to pay and benefits. See [http://www.dol.gov/odep/pubs/fact/employ.htm](http://www.dol.gov/odep/pubs/fact/employ.htm).
current issues and also provided an opportunity to network with other City HR personnel regarding best practices.

Coordination is key to efficiently and effectively addressing issues that affect more than one agency. In a report on results-oriented government, the U.S. Government Accountability Office (GAO) outlined practices that can enhance collaboration among federal agencies. To illustrate the point, the GAO report cites the work of the Department of Health and Human Services (HHS). To monitor and report on the status of achieving the Healthy People 2010 objectives, HHS held progress reviews in which each of the federal agencies with lead responsibilities for a particular focus area reported on their progress towards achieving identified objectives. Other federal agencies that conduct work related to the same focus area also participated in these meetings. The agencies discussed the data trends, barriers to achieving the objectives, strategies undertaken to overcome barriers, and alternative approaches to attain further progress. Although the GAO report focuses on practices that can enhance collaboration among federal agencies, the lessons learned outlined in the report can be applied to state and local governments as well.20

While several of the City agencies with their own HR Departments operate largely independently from the OHR Leave Team, the absence of opportunities for regular coordination and collaboration may limit the extent to which FMLA is administered effectively and consistently across the City. Agencies are also missing important opportunities to share best practices, such as approaches to providing training to staff and supervisors and developing useful tools for administering FMLA. Regular coordination and collaboration across HR teams may also provide important opportunities to discuss potential process improvements and to compare notes about difficult cases. In order to provide opportunities for increased consultation and coordination related to the administration of FMLA and other types of leave, we recommend that the OHR Leave Team establish regular meetings with HR personnel across the City, including those agencies with their own leave teams.

City Employees and Supervisors Have a Limited Understanding of Their Rights and Responsibilities under FMLA

Based on the results of a survey the Auditor’s Office sent to City employees, we found that while the majority of employees are familiar with FMLA, many employees do not fully understand the circumstances under which they can take leave. Further, supervisors have only a limited understanding of their roles and responsibilities for managing employees who are on FMLA leave. The OHR Leave Team has conducted training with the leadership in a number of agencies to ensure that managers and supervisors understand the role of the new OHR Leave Team as well as the current federal

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regulations and CSA rules governing FMLA. However, they have not yet implemented the training Citywide. Similarly, the City Attorney’s Office has reported that they are planning to work in conjunction with the OHR Leave Team to implement a mandatory training on employment law and leave policies for all new supervisors.

The introductory supervisor training already underway by the OHR Leave Team and the planned training by the City Attorney’s office are good first steps. However, more consistent and frequent communication delivered to both employees and supervisors via easily accessible methods is also essential. Although City employees receive guidance from HR personnel when they apply for FMLA, in the absence of additional ongoing education, some employees may not be fully aware of the circumstances under which they can qualify for leave and supervisors may not fully understand their responsibilities with regard to managing leave for their employees. Additional tools such as periodic training for all employees and supervisors, written benefits materials, posting clear guidelines on the City’s intranet, and use of employee bulletins and similar communication mechanisms are all valuable ways to keep employees informed of available FMLA benefits and ensure the appropriate use of leave.

**The Majority of City Employees Have a Limited Understanding of FMLA**

In a survey conducted with City employees, we found that while a majority of the respondents have heard of FMLA, few respondents have a good understanding of the specific circumstances under which they can take leave. Further, while respondents understood the steps HR takes when an employee applies for FMLA, few respondents had a clear understanding of the roles and responsibilities of supervisors in administering FMLA. In total, only 19 percent of respondents strongly agreed with the statement that they have been sufficiently educated about their rights and responsibilities under FMLA. For full survey results, see the Appendix.

- In total, 96 percent of respondents indicated they have heard of FMLA and 42 percent of respondents reported they have taken FMLA while employed by the City and County of Denver.

- A total of 55 percent of respondents correctly indicated that FMLA could be taken for up to twelve weeks per year, while another 35 percent of respondents indicated they do not know how much time off is allowed under FMLA.

- A total of 67 percent of respondents incorrectly believe that they can qualify for FMLA once they complete their six months probation period.21

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21 According to federal FMLA legislation, employees must have worked at least 1,250 hours and been employed for twelve months before they can qualify for FMLA. 29 CFR §825.102(1993).
• More than 70 percent of respondents know that FMLA can be taken to care for a newborn child, a newly placed foster child, or a same sex spouse with a serious medical condition. However, 34 percent of respondents incorrectly believe that FMLA can also be used to care for a sick uncle or to attend an annual health check-up or screening.

• The majority of respondents correctly identified the steps that OHR takes when an employee applies for FMLA including providing a reason if leave is denied (87 percent), continuing health insurance (72 percent), and contacting the employee’s doctor (67 percent).

• The majority of respondents (86 percent) know that their supervisor is responsible for entering their time off into Kronos. However, a number of respondents incorrectly believe their supervisor is also responsible for approving their request to take FMLA (42 percent), getting documentation from their doctor (30 percent), and monitoring the status of their health condition (15 percent).

• Additionally, 56 percent of respondents strongly agreed with the statement that their supervisor would be supportive if they needed to take FMLA.

According to the OHR Leave Team, employees are primarily educated about FMLA through either new employee orientation or through informational posters posted in break rooms throughout City offices. Additionally, rules governing FMLA are outlined in the City’s CSA rules, but employees may be unlikely to review those rules in detail unless they find themselves in need of FMLA. Currently, the majority of employees receive one-on-one education on FMLA from HR personnel at the time that they apply for FMLA. However, industry experts agree that, in the absence of additional education about FMLA for all employees, some employees may not be fully aware of the circumstances under which they can apply for FMLA and may be less likely to take leave for qualifying conditions.

**Supervisors Have a Limited Understanding of Their Responsibilities Related to Managing FMLA for Their Employees**

The majority of supervisors responding to the survey indicated they had experience supervising an employee on FMLA. However, 66 percent of supervisors indicated they had received no education or training on FMLA beyond what is covered in written OHR policies and CSA rules. In total, only 32 percent of supervisors strongly agreed that they understand their responsibilities related to monitoring and managing FMLA for their employees.

In open-ended comments, a number of supervisors expressed concerns about their level of understanding of FMLA and a desire for more education for both employees and supervisors. Several supervisors also noted their reliance on HR staff to help guide them in their responsibilities related to managing FMLA for their employees.
I've never had any formal training from the City regarding FMLA. What I have learned, I've learned in pieces from HR personnel and my supervisor. I think there should be some formal training for supervisors, managers, and employees.

I had an employee on FMLA in October 2014. I asked the FMLA representative if there was supervisor training for this specifically, because it is complicated. I was told training was being planned, but that was six months ago, so I hope we will see it soon. I believe FMLA and Workman's Comp training should be required of supervisors and employees every three years, if only for just a short one or two hour session. Like driver training, we may not use it as much, but it is probably more important.

The Society for Human Resource Management has reported that many employees are aware of the basic requirements of the law, but they may not realize the law provides employers with various options on how to administer FMLA. It is essential for all supervisors, in addition to the HR staff, to understand how to comply with FMLA and with the employer's own FMLA policy. Employers need to train new supervisors and retrain current supervisors on FMLA and the employer's policy so that employees receive the full and correct benefit of the law.  

Further, while employees are not required to share information regarding their reason for taking FMLA with their supervisor (and supervisors are not allowed to ask), it is sometimes inevitable that employees who feel comfortable with their supervisors or are close to their coworkers will voluntarily elaborate on their reasons for taking leave. As a result, training for supervisors should also address what is and is not allowable under FMLA and help to set reasonable expectations for what is appropriate.

HR teams in other agencies provided us with several examples of how inadequate supervisor education had led to misunderstandings and problems related to the administration of FMLA. In one case, a supervisor expressed her expectation that an employee should be able to return to work immediately after the employee's family member had returned home from the hospital following surgery. HR staff had to remind the supervisor that the employee could take additional time to care for her family member even after returning home from the hospital and that this was an appropriate use of FMLA leave. In another example, an employee on intermittent FMLA informed their supervisor that they planned to use three to four FMLA hours to go to the store to get medication for their condition. In this instance, HR staff indicated that they would have advised the employee that this is not an appropriate use of FMLA, particularly since the employee had the option to go to the store after work or toward

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I've never had any formal training from the City regarding FMLA. What I have learned, I've learned in pieces from HR personnel and my supervisor. I think there should be some formal training for supervisors, managers, and employees.

-City Supervisor responding to FMLA survey

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the beginning or end of the workday. However, because the supervisor had a limited understanding of what is allowable under FMLA and was reluctant to question the employee for fear of overstepping their boundaries, the employee was not questioned about the planned use of FMLA.

**Employees and Supervisors Have Expressed Concerns about Potential FMLA Abuse**

While none of the HR personnel we spoke with reported observing consistent patterns of abuse, they did note that abuse happens on occasion. As mentioned previously, HR personnel reported that they attempt to prevent abuse by closely reviewing medical certifications, communicating directly with physicians when there is a need for clarification, and making it clear to employees what is allowable under the bounds of FMLA leave parameters. However, even with these controls in place, HR staff indicated that there are always a few employees who attempt to abuse the system. For example, some employees may take time off for non-medical reasons but claim it as FMLA. For those employees that have received doctors’ certifications and have had their FMLA approved by HR staff, there are limits to what HR staff can do when an employee charges time to FMLA unless they can prove that the employee is using the time for something other than an FMLA-approved reason.

Regardless of the fact that HR staff reported that FMLA abuse is relatively rare, some employees and supervisors have expressed concerns that FMLA abuse is a problem among City employees. Among survey respondents, 12 percent somewhat or strongly disagreed that “The majority of City employees use FMLA for legitimate reasons.” Among supervisors, the rate was slightly higher. In total, 16 percent of supervisors either somewhat or strongly disagreed that the majority of City employees use FMLA for legitimate reasons. In open-ended comments, supervisors expressed frustrations about abuse and their interest in receiving additional guidance and training about how to detect and prevent abuse:

As a supervisor and user of FMLA, I am aware that there can be persons who abuse or at least take advantage of what is, at its core, a good program. It would be nice, as both a supervisor and staff member, to have additional training on FMLA.

-City supervisor responding to FMLA survey

As a supervisor and user of FMLA, I am aware that there can be persons who abuse or at least take advantage of what is, at its core, a good program. It would be nice, as both a supervisor and staff member, to have additional training on FMLA.

How do I detect FMLA abuse? What are the rights of supervisors? How do we address the impact on other employees?

I have both positive and negative feelings about FMLA. Supervisors do not get the information they need to correctly monitor employees’ use of FMLA. However, I thoroughly appreciate the option of having it and I feel...
many people do use it and use it correctly. It feels like everyone is too afraid to talk frankly about the FMLA process and ensure it is being followed.

Additional education for both employees and supervisors is one way to help address concerns about abuse. Education is key when it comes to ensuring that employees understand what is and is not allowable under FMLA. Further, helping supervisors to understand what steps they can take when they suspect abuse is one important way to limit abuse. The Society for Human Resource Management suggests that training managers and supervisors is a key part of preventing FMLA abuse; the more eyes and ears available to identify possible abuse, the better. Managers and supervisors should know the basics of the law, such as qualifying reasons for leave and the notice provisions.\textsuperscript{23}

**Employee and Supervisor Education Is Key to More Effective FMLA Administration**

The OHR Leave Team has initiated FMLA training for City supervisors, both to introduce City agencies to the functions of the new OHR Leave Team and to provide an introduction to the basics of FMLA. The training covers issues such as which employees qualify for FMLA, the circumstances under which FMLA can be taken, and the amount of leave allowed under FMLA. The training also covers the role of the OHR Leave Team and encourages supervisors to reach out to their HR representative if they notice excessive absences or disruptive patterns of FMLA usage. As of May 1, 2015, the OHR Leave Team had conducted trainings with eight City agencies and informal sessions with another four agencies. Additionally, the City Attorney’s Office is planning to work with the OHR Leave Team to develop a formalized online employment law training which will cover FMLA and other types of leave. The City Attorney has reported that they plan to launch the online training in July 2015 and it will be required training for all new City supervisors.

Industry experts agree that training is an essential component of effective FMLA administration. In 2006, the Liberty Mutual Group brought together human resource managers, benefit managers, and employer peers to discuss the challenges of FMLA administration and best practices for program management.\textsuperscript{24} The resulting paper detailed ten key issues explored by participants and gives examples of successful FMLA administration. One of the ten best practices identified in the report is to communicate program eligibility requirements and benefits to employees early and often. The report notes that consistent communication and frequent education promotes timely reporting of both planned and unexpected absences and curtails abuse. Panelists used a wide variety of communication strategies, including creating internal FMLA resources for employees and supervisors and providing follow-up information through a variety of means including the intranet, lunch-and-learns, and direct mail campaigns.

\begin{footnotes}
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Our findings that indicate the majority (96 percent) of City employees have heard of FMLA are consistent with the 2012 survey conducted by the federal Department of Labor (DOL) that found that 71 percent of DOL respondents who worked at covered employers reported they had heard of FMLA. This puts City and County of Denver employees at better than the national average when it comes to being familiar with FMLA. However, a more detailed understanding of FMLA is key to ensuring that employees know how, when, and under what circumstances they can access leave.

In a 2007 DOL report, one union noted that the “posting” (i.e., posters in employee break rooms) requirements for employers subject to FMLA do not go far enough in that they do not actively educate employees on their rights.

Although employees receive guidance from HR personnel when they apply for FMLA, in the absence of additional ongoing education about FMLA, some employees may not be fully aware of the circumstances under which they can qualify for leave. Therefore, the OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the rights and responsibilities of employees under FMLA.

In the 2007 DOL report, authors point out that it is also essential that supervisors understand how to comply with FMLA; “Awareness of one’s FMLA’s rights in the workplace is woefully absent. In my experience, most litigation has been the result of supervisors who are simply ignorant about FMLA.” While the OHR Leave Team and the City Attorney’s Office have taken positive steps in initiating FMLA training for City managers and supervisors, in the absence of more easily accessible FMLA education for supervisors, supervisors do not have a clear understanding of their roles and responsibilities for managing an employee who is on FMLA leave. The OHR Leave Team should also develop and distribute basic, user-friendly written guidance outlining the responsibilities of supervisors under FMLA.

There Are Limitations in the Efficiency, Reliability, and Security of Applications and Manual Data Systems Currently Used To Manage FMLA

FMLA is managed inefficiently and inconsistently throughout the City as a result of a heavy reliance on manual processes and applications including Outlook Task reminders and Excel spreadsheets. Moreover, it is difficult to track leave usage and abuse patterns in a timely and consistent manner using current manual data systems and procedures. Additionally, existing data systems present significant security concerns as access rights to shared drives used by the OHR Leave Team are not kept up-to-date and we found problems related to the controls on the shared drive used by payroll staff to store employees’ confidential medical information. Finally, inaccurate and inconsistent data entry into Kronos means that data on FMLA and City Medical Leave is not always recorded accurately. Leaves could be managed more efficiently and accurately if the

27 Ibid.
OHR Leave Team eliminated the manual tracking of thousands of FMLA hours and instead managed FMLA and other types of leave with an automated Human Resource Information System (HRIS). OHR is currently exploring options for acquiring an automated FMLA system to address the limitations of existing data systems and to provide for more secure and consistent administration of FMLA cases across the City.

**Current Manual Systems Are Inefficient**

The OHR Leave Team is currently managing FMLA with numerous manually intensive mechanisms. Outlook Task reminders are utilized to track when required communications need to be sent, when forms are due, and when other actions need to be performed related to key FMLA case milestones. After every major FMLA case communication or milestone, the Leave Team Specialists perform manual searches in Outlook by the employee’s name to locate and update all Outlook Task reminders based on guidance outlined in the policies and procedures. Excel spreadsheets are utilized to track all intermittent FMLA usage and also to track continuous blocks of leave. Monitoring FMLA usage for patterns of abuse involves reviewing the spreadsheet tracker to identify suspicious historical usage patterns. In 2014, the City had over 1,700 open FMLA cases and employees utilized over 175,000 hours of FMLA leave. Manual methods such as spreadsheets are prone to error. Reducing manual tracking and administration would increase the efficiency and accuracy of FMLA management procedures.

**While Pay for Employees on FMLA Appears To Be Correct, Some Case Information in Kronos Is Inconsistent and Inaccurate**

As mentioned previously, payroll staff are responsible for entering all FMLA information into the Kronos data system. To assess whether FMLA data has been accurately input into Kronos, we performed detailed records testing on a random sample of FMLA cases by tracing FMLA information in Kronos back to supporting documentation.

We selected a random sample of twenty-five employees who had used any FMLA hours from 2013 to the first quarter of 2015, selecting a total of ten employees each from 2013 and 2014 and five employees from the first quarter of 2015. For each employee selected, we traced the leave case information in Kronos to the Case Information Sheets and other applicable source documentation. Among the attributes tested were the leave case start and end dates, intermittent and continuous leave designations, and the reason for leave. Additionally, we traced information related to each FMLA absence in Kronos to the Leave Calendars, Time and Attendance Change forms, and other applicable source documentation. Among the attributes tested were the specific days that FMLA absences were incurred, the number of hours incurred during those absences, and the pay codes applied to those absences.

Our testing found that all Kronos entries were consistent with the supporting source documentation. As such, based on our testing, it appears that basic information on FMLA cases, FMLA usage, and employees’ pay codes are being appropriately entered into the Kronos data system by payroll staff. However, our review of FMLA data within Kronos identified some instances of inaccurate and inconsistent coding with regard to City Medical Leave and FMLA end dates.
City Medical Leave Coding - Payroll staff assign leave codes to absences within Kronos in order to ensure that the available bank of hours is reduced as leave is incurred. If medical leave is first taken for a family member only covered by the City’s definition of immediate family but not by FMLA, it should only be recorded as City Medical Leave in Kronos. In these cases, the employee would still be eligible to take FMLA leave later in the year if they have a family or medical event that would qualify under the federal definition.

Our review of Kronos data identified several instances where cases that should have only been coded as City Medical Leave cases were incorrectly assigned FMLA leave codes. Specifically, between 2012 and the first quarter of 2015, we identified over 900 hours of City Medical Leave that were incorrectly coded as FMLA, which improperly reduced the FMLA hours bank for those employees. These coding errors could result in employees being denied the right to take FMLA leave to which they would have been entitled under certain circumstances. We reviewed payroll staff’s written policies and procedures related to FMLA Kronos data entry and noted that they do not explicitly provide guidance regarding the interaction between FMLA and City Medical Leave.

Leave Case End Dates - Payroll staff are responsible for creating new leave cases for employees on FMLA within Kronos. Leave cases need to be setup within Kronos in order for FMLA hours to be assigned to those employees when they incur FMLA absences. This process includes recording the planned start and end dates for FMLA leave, whether the leave is intermittent or continuous, and the reason the employee is taking leave (i.e., one’s own health condition, to care for a family member, maternity leave, paternity leave, etc.)

In the course of our review of FMLA data in Kronos, we identified several leave cases with erroneous leave end dates of 1/1/3000. Specifically, as of the first quarter of 2015, we noted nineteen FMLA cases that were not updated with accurate case end dates.

Incorrect case end dates affect Kronos data reporting because cases with future end dates are interpreted by the report query as open cases. This slightly skews the report of open cases by year. For instance, if a case was opened in 2009 and an incorrect future case end date was assigned, the case will show up on the case report as being an open case every year going forward even though the case should have ended within a twelve-month period or less.

We recommend that payroll staff develop reconciliation procedures that identify and correct City Medical Leave usage that is assigned incorrect leave codes and identify and correct leave cases that are assigned erroneous case end dates in Kronos.

Inadequate Access Controls for Systems Used To Store FMLA Data May Result in Sensitive Data Being Compromised

In the process of administering FMLA, the OHR Leave Team and payroll staff work with sensitive information including medical certifications from physicians attesting to an employee’s need to take FMLA. For employees that qualify, both the OHR Leave Team and payroll staff process short-term disability claims, which may also contain sensitive medical information. In addition to containing sensitive medical information such as an
employee’s medical diagnosis, these documents may also contain the employee’s social security number and other personal identification information. We examined the logical access controls to the shared drives used by the OHR Leave Team and payroll staff to store employee FMLA leave files. Logical access controls refer to the controls such as Windows Active Directory user names and passwords, as well as file access and permissions that control which user or group of users are authorized to access electronically stored information.

We found that the employee leave management files maintained by the OHR Leave Team are protected through the use of the Windows Active Directory file and folder security controls governing access and permissions levels. This allows the OHR Leave Team Manager to control which staff members have access to folders, as well as their level of access, in order to ensure that only staff responsible for administering individual FMLA cases have access to confidential FMLA files. However, the OHR Leave Team informed us that they do not perform periodic reviews of which employees have access to the folders on the shared drive containing confidential information. In the absence of periodic access reviews, an employee who transfers to another agency or transitions to another role within OHR may retain access to the secured folders, which increases the risk of unauthorized access to sensitive or protected data. The OHR Executive Director should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order to ensure that personal and medical information of City employees is adequately protected.

Payroll staff within the Controller’s Office also administer key aspects of the FMLA administrative process. The Controller’s Office has also implemented Windows Active Directory file and folder security to restrict access to confidential files. However, we determined that access was not adequately restricted to these folders. Approximately seventy-five employees who did not have a business need for FMLA information were inadvertently allowed access to employees’ confidential files. While the employees who had unauthorized access may have been unaware of the fact that they had access to the files, the lack of adequate access controls could have resulted in employees’ personal protected data being compromised.

According to Controller’s Office personnel, the access was inadvertently allowed as a result of the preparation of moving their files to a Microsoft SharePoint platform. Due to the sensitive nature of the data that could have been exposed, we immediately reported the issue to the Controller’s Office and they took action and resolved the issue. We recommend the Controller’s Office should perform regular access reviews to ensure that access controls are appropriate and that confidential employee information is not exposed. Additionally, prior to the planned transition to move file security from Windows Active Directory files permission into Microsoft SharePoint, a risk assessment should be performed to ensure that appropriate security measures are in place and that access will continue to be monitored on a regular basis once all files are moved to SharePoint.

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28 Six of the agencies with their own HR departments also said they maintained their FMLA files on a shared drive. Because it was outside of the scope of our audit, we did not assess access controls for those agencies with their own HR teams.
OHR Is Exploring Options for Acquiring an Automated FMLA System To Address the Limitations of Existing Data Systems

The OHR Leave Team recognizes that managing FMLA through manual processes results in inefficiencies and inconsistencies Citywide and there is a need for an automated FMLA system. OHR is in the process of procuring an automated data system for administering FMLA and ADA. FMLA software provides comprehensive administration of FMLA leave because employer policies can be built into the system’s controls and, therefore, applied consistently. FMLA systems provide a streamlined process that enhances efficiencies, reduces labor costs, and minimizes risks in comparison to manual processes.

During the initiation of the audit, the OHR Leave Team outlined their current approach to administering FMLA through manual processes and the necessity to store FMLA documents on a shared drive as issues they had identified as pertinent to their ability to effectively administer FMLA. Storing FMLA data on shared drives increase the security risks of confidential information. The OHR Leave Team indicated that FMLA could be managed more efficiently and consistently by eliminating tracking thousands of FMLA hours manually. In addition, utilizing a manual process causes difficulty in tracking leave usage and identifying abuse patterns in a timely and consistent manner.

The workflow processes followed by the OHR Leave Team and the current manual processes followed to create a file take twenty-five minutes in comparison to estimates that the same case would take approximately seven minutes with software. The OHR Leave Team opened an average of twelve cases per week over the last five months. According to OHR's cost-benefit analysis, automated software would enable the OHR Leave Team to save an average of four hours per week on case initiations. OHR estimates that the total time savings would allow the OHR Leave Team to increase case management capacity by 50 percent per full-time equivalent (FTE). The cost comparison does not take into account the work that would be done in the time saved and does not account for other efficiencies that software would enable the OHR Leave Team to achieve.

Since 2007, DHS has been using an automated software, Qcera, to manage FMLA and their process for managing FMLA is significantly more efficient as a result. DHS follows the same policies as the OHR Leave Team, but Qcera automates the following processes:

- Verifies FMLA eligibility
- Enters the type of leave: continuous, intermittent, self, family member, etc.
- Various forms and notifications to employees are automatically generated
- Several due dates are tracked in the system and automatic alerts are sent to employees a week prior to when forms are due
- A dashboard that lists all tasks that are due each day
- All letters and communications are stored within Qcera
OHR is considering purchasing an enhanced version of Qcera since it has a majority of the capabilities OHR needs. Although OHR would prefer to procure a system in 2015, due to budget constraints and the denial of funding from the City’s Innovation Fund, the funding will have to be included in OHR’s 2016 budget. OHR is examining the possibility of implementing the new system Citywide to enhance consistency, but since there are some independent agencies with their own leave teams and other agencies that utilize their own timekeeping systems, this will require communication with the agencies about the system acquisition and their buy-in. OHR is still in the early stages of acquiring the system, so they have not reached out to all City agencies yet.

FMLA software minimizes risks in comparison to manual processes and provides a streamlined process that enhances efficiencies and reduces labor costs. Using a system specifically designed for FMLA tracking or an HRIS can be beneficial in reducing error and yield an excellent return on investment.

In addition, the Leave Team Specialists on the OHR Leave Team indicated that based on their prior experience working for a private-sector organization that focuses on managing FMLA, data analytics could be performed and were easier to generate because all of the data was consistently tracked within the HRIS, which also had reporting capabilities. Following are some of the capabilities that are needed in OHR’s automated system:

- Established FMLA governance rules included for consistent management
- Automated communications to stakeholders
- A dashboard for enhanced monitoring of cases
- Interfaces with Kronos
- Stores all communications in a secure environment
- Reporting capabilities to conduct trending

An automated FMLA system for the City would enhance the administration of FMLA by providing consistency, enhancing efficiencies, and providing data reporting capabilities to track leave usage and identify areas of risk to assist with program strategies. Therefore, we recommend that the OHR Executive Director ensures that an automated HRIS is acquired that would allow for more consistent and secure management of FMLA cases across the City. In addition, the OHR Leave Team should ensure that the HRIS, at a minimum, has the following capabilities: established FMLA governance rules included for consistent management, automated communications to stakeholders, a dashboard for enhanced monitoring of cases, automatically sets tasks for follow-up, interfaces with Kronos, stores data and communications in a secure environment, and advanced data analytics and reporting capabilities. Once the HRIS is acquired, OHR should communicate with those City agencies that have their own leave teams to ensure they are aware of the capabilities of the new system and encourage Citywide utilization.

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29 According to the City’s 2015 Budget Book, the City’s Innovation Fund monies are for the implementation of projects designed to improve City operations and efficiencies through automation and business process improvement for agencies within the General Fund.
The OHR Leave Team Is Not Conducting FMLA Trend Analysis To Identify Areas of Risk and Inform Program Strategies

The OHR Leave Team is not currently conducting data analysis to identify trends in FMLA data use across the City. According to identified best practices, FMLA trend analysis can be used to identify patterns of abuse, to reinforce appropriate FMLA use, and to inform staffing and workload planning. FMLA data analysis can also be used to develop needed educational tools, training programs, and wellness strategies. The data that can be generated on FMLA usage from Kronos is currently limited. The OHR Leave Team will need to address these data limitations in Kronos or ensure that a new HRIS data system has the capability to generate meaningful trend data on FMLA usage across the City.

We were able to conduct limited trend analysis on FMLA usage based on data in Kronos. Our analysis found that total FMLA usage in the City has remained relatively consistent in recent years. Our analysis also identified the agencies that use the most FMLA, the agencies with the highest percentage of employees with FMLA cases, and the most common reasons for taking FMLA in the City.

The OHR Leave Team Is Not Currently Conducting Data Analysis To Inform Its Management of FMLA across the City

The OHR Leave Team is not currently conducting FMLA data trend analysis as part of their efforts. One key barrier to conducting meaningful trend analysis on FMLA usage across the City is that FMLA data in Kronos is limited. Specifically, Kronos does not include demographic information such as age, gender, and ethnicity. This information is maintained in a separate system, PeopleSoft, and is not easily integrated with the Kronos FMLA data for the purposes of trend analysis. Additionally, Kronos does not reflect FMLA usage data for uniformed personnel in the Department of Safety. FMLA data for uniformed Department of Safety personnel is maintained in separate data systems. Furthermore, FMLA data is sometimes retroactively updated in Kronos, particularly in cases when employees take sick leave that is later approved as FMLA. These historical edits limit the extent to which data can be accurately queried in Kronos. Despite the limitations on the ability to generate accurate trend data using Kronos, it is important to note that, in the testing we conducted, we found that employees’ pay is being administered correctly. However, as a result of the impact of historical edits on FMLA data in Kronos, it is not possible to perform trend analysis of the type of pay used by employees on FMLA.

According to best practices identified by human resource managers, benefit managers, and employer peers in a paper sponsored by the Liberty Mutual Group, capturing and tracking leave data is essential to ensuring compliance with federal law and without complete data, employers cannot readily see the “big picture” of their FMLA programs. Storing all historical information in a central location is among the best practice strategies

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30 The Denver Police Department and the Denver Fire Department utilize the TeleStaff timekeeping system and the Denver Sheriff Department utilizes Relief Factor Management System (RFMS) timekeeping system.
noted by participating panelists in the paper.\textsuperscript{31} The OHR Leave Team will need to address existing data limitations in Kronos or ensure that a new HRIS data system has the capability to generate meaningful trend data on FMLA usage across the City.

Another barrier to conducting meaningful FMLA data analytics is the fact that standardized FMLA data reports from Kronos have not yet been developed. As such, FMLA data reports currently have to be custom generated each time data is requested. This can be a complex process often requiring multiple iterations in order to properly capture the correct data and all pertinent fields needed to conduct meaningful analysis. Further, there are a limited number of personnel within the Controller’s Office with the expertise to create custom report queries within Kronos. The OHR Leave Team has also experienced difficulties in obtaining accurate FMLA data using Kronos. In early 2015, the OHR Leave Team requested and obtained a Kronos data report of historical FMLA usage from the Senior ERP Systems Analyst in the Controller’s Office. However, we identified significant inaccuracies in their data set. We worked with the Senior ERP Systems Analyst in the Controller’s Office to pull accurate data on FMLA usage from Kronos. However, it was necessary to go through multiple iterations of the FMLA data reports in order to accurately capture the correct data with all the pertinent fields to allow us to filter and stratify the data in a meaningful manner. For example, we encountered the following difficulties in generating accurate FMLA data:

- Initial FMLA data reports did not include historical FMLA data for employees who have since left the City nor did it account for employees who have switched agencies since using FMLA.
- Original queries were not structured to reflect employees who had taken City Medical Leave.
- Original queries were not structured to accurately reflect all FMLA cases.
- Original queries did not include a status field that would allow a distinction between pending, approved, and denied FMLA cases.

While it appears that these challenges with generating accurate queries from Kronos can ultimately be resolved, they exemplify the difficulties with obtaining quality FMLA trend data from Kronos.

We recommend that the OHR Leave Team should work with the Senior ERP Systems Analyst in the Controller’s Office to develop standardized reports that can be generated on a recurring basis that would provide complete and pertinent FMLA data that can be analyzed in a meaningful manner.

**Conducting Data Analytics Is Important To Ensure Proper Administration, Identify Potential Abuse, and Inform Management Strategies**

Conducting regular data analytics is one potential way to identify absence patterns that may indicate abuse and to determine the extent to which abuse may represent a larger

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pattern across departments and agencies. Absence rates can be monitored to determine patterns of leave usage for specific agencies or divisions. This can help to spot outliers in the data that may suggest potential abuse. Data can also be used to measure the impact of FMLA absences on productivity and allow managers to conduct more accurate staffing and workforce planning to ensure that FMLA has a minimal impact on productivity, mandatory overtime, and employee morale. Of all survey respondents, 57 percent either somewhat agreed or strongly agreed with the statement “FMLA costs my Department in terms of lost productivity.” Among just supervisors, the rate was even higher, 69 percent of supervisors responding to the survey either somewhat or strongly agreed that “FMLA costs my Department in terms of lost productivity.” Supervisors also expressed concerns about the impact that FMLA has on productivity and workloads. Among supervisors, 79 percent of supervisors either somewhat or strongly agreed with the statement, “When my colleagues take FMLA leave, it creates more work for me and others in my Department.” Again, in open-ended comments, supervisors expressed concerns about how to conduct better workforce planning in order to compensate for employees that are on FMLA.

The number of employees I have had on FMLA has caused great hardship as we try to keep a 24/7 unit running. I believe that FMLA is a good thing for all City employees but it is extremely taxing on the staff left to deal with the workload in the absence of replacement staff or anyone to help fill in.

It is difficult when people use FMLA appropriately, but sporadically miss a day each week, month, etc. Those random absences can have a bigger impact on the department and personnel than an extended absence, because you don't know what to expect each day (Am I doing my job or mine and someone else's today?) Supervisors and employees need better education about how to create a plan of action to ensure the coverage and expectations are well defined. While we cannot explain to our employees the reason why their coworkers [are] on FMLA, we can help them to better understand how to deal with it.

Data analytics can assist in workload planning. As an example, Texas Health Resources used leave reports by department to assist in determining budgeting and staffing requirements for the upcoming year. These reporting capabilities provided Texas Health Resources with a comprehensive view of its program and helped to identify areas for improvement.32

Among survey respondents who indicated they had taken FMLA while employed by the City, a much higher proportion of women (69 percent) reported taking FMLA than men (31 percent). Further, when survey responses are stratified by gender, results show that a significant number of women are taking time off to care for a sick parent. According to the Department of Labor's latest technical report, FMLA in 2012, the original FMLA statute noted that “due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men.” Consistent with

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32 Ibid.
Our survey results, the Department of Labor report also found that in 2012, leave was still more common among women with women being one-third more likely to take leave than men.\textsuperscript{33} However, we found that a significant number of men are also taking paternity leave, a phenomenon that, according to City HR personnel, was less common in decades past. Additionally, a slightly higher proportion of women than men used short-term disability and leave without pay while on FMLA.

Conducting regular trend analysis on FMLA usage in the City can help to identify patterns of abuse, reinforce appropriate FMLA use, and inform staffing and productivity planning. Trend analysis can also inform needed educational tools, training programs, and wellness strategies. For instance, if data trends indicate that an increasing number of employees are taking leave to care for parents with a serious medical condition, the City could develop educational and support programs that offer guidance and assistance related to caring for aging parents. However, in order to be able to conduct FMLA data analytics, the OHR Leave Team will need to address the data limitations in Kronos or ensure that a new HRIS data system has the capability to generate meaningful and accurate trend data on FMLA usage across the City.

We recommend that the OHR Leave Team should use FMLA data analytics to track trends in FMLA usage across the City that will allow the OHR Leave Team to address specific areas of risk, identify absence patterns which may suggest potential abuse, as well as to develop programs that may address absence, health, and wellness strategies to better meet the needs of City employees.

\textbf{The OHR Leave Team Has Not Yet Developed Performance Metrics for Managing FMLA}

In addition to conducting FMLA trend analysis, performance metrics can also help to guide the OHR Leave Team in their efforts to more effectively administer FMLA. The OHR Leave Team is still relatively new and they have not yet developed performance metrics related to their administration and management of FMLA. Developing performance metrics would be helpful in guiding the team’s work and ensuring that they are meeting identified and measurable goals. According to Standards for Internal Control in the Federal Government, management should establish activities to monitor performance measures and indicators that may include comparisons and assessments relating different sets of data to one another so that analyses of the relationships can be made and appropriate actions taken. Performance metrics can help measure the impact or results of a program or activity once it is implemented relative to desired outcomes or goals.\textsuperscript{34} Among other things, performance metrics could be utilized to assess education and training efforts, the amount of time spent managing FMLA cases, and customer satisfaction. We recommend that the OHR Leave Team develop performance metrics to help guide its work and to ensure it is meeting identified and measurable goals with regard to the administration of FMLA.


RECOMMENDATIONS

We offer the following fourteen recommendations to improve the administration of FMLA.

1.1 **Process Inefficiencies** - The OHR Leave Team should work with payroll staff to streamline the intermittent FMLA absence reporting process and eliminate duplication of efforts related to reviewing FMLA usage against certified parameters. Additionally, as the roles and responsibilities of the new OHR Leave Team continue to evolve, the OHR Leave Team should work with payroll staff to explore other areas where duplication of effort can be eliminated.

1.2 **Coordination and Consultation with City HR Personnel** - The OHR Leave Team should establish regular meetings with HR personnel across the City, including those agencies with their own leave teams, in order to provide opportunities for increased consultation and coordination related to the administration of FMLA and other types of leave.

1.3 **Employee Education** - The OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the rights and responsibilities of employees under FMLA. In addition to outlining the basic terms of FMLA leave, the guidance should include a list of resources of where employees can learn more detailed information as well as the names of HR staff that can provide assistance should they need to apply for FMLA. The OHR Leave Team should identify a variety of means for distributing educational materials to employees such as posting information on the Denver.ONE.Team website, offering occasional lunch-and-learns, or sharing information through citywide e-mails and newsletters.

1.4 **Supervisor Education** - The OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the responsibilities of supervisors under FMLA. The guidance should cover supervisors' responsibilities with regard to monitoring FMLA, communicating with employees and HR personnel, and provide information on what is and is not an acceptable use of FMLA, including steps to follow if fraud or abuse is suspected. The OHR Leave Team should also identify a variety of means for distributing educational materials to supervisors such as posting information on the Denver.ONE.Team website, offering occasional lunch-and-learns, or sharing information through citywide e-mails and newsletters.

1.5 **Kronos Coding** - Payroll staff should develop reconciliation procedures that identify and correct City Medical Leave usage that is assigned incorrect leave codes and correct leave cases that are assigned erroneous case end dates in Kronos.

1.6 **Payroll’s Policies and Procedures** - Payroll staff should develop more robust written policies and procedures related to FMLA administration that, at a minimum, provide an overview of payroll staff’s roles and responsibilities as they relate to the administration of FMLA, specific workflow processes for determining what needs to be entered into Kronos, applying leave codes to FMLA and City Medical Leave usage in Kronos, coordinating with the OHR Leave Team and supervisors, and saving documentation securely.
1.7 **Security of OHR Files** – The OHR Executive Director should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order to ensure that personal and medical information of City employees is adequately protected.

1.8 **Security of Controller’s Office Files** – The City Controller should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order to adequately protect personal and medical information of City employees.

1.9 **Risk Assessment for File Security** – The City Controller should ensure that a risk assessment is performed to confirm that appropriate security measures are in place and that access will continue to be monitored on a regular basis once all files are moved to SharePoint.

1.10 **Automated HRIS** – We recommend that the OHR Executive Director ensures that an automated HRIS is acquired that would allow for more consistent and secure management of FMLA cases across the City.

1.11 **HRIS Capabilities and Citywide Utilization** – The OHR Leave Team should ensure that the HRIS, at a minimum, has the following capabilities: established FMLA governance rules included for consistent management; automated communications to stakeholders, a dashboard for enhanced monitoring of cases, automatically sets tasks for follow-up, interfaces with Kronos, stores data and communications in a secure environment, and advanced data analytics and reporting capabilities. Once the HRIS is acquired, the OHR Leave Team should communicate with those City agencies that have their own leave teams to ensure they are aware of the capabilities of the new system and encourage citywide utilization.

1.12 **Standardized Data Queries** – The OHR Leave Team should work with the Senior ERP Systems Analyst in the Controller’s Office to develop standardized data reports that can be generated on a recurring basis that would provide complete and pertinent FMLA data that can be analyzed in a meaningful manner.

1.13 **Data Analytics** – The OHR Leave Team should use FMLA data analytics to track trends in FMLA usage across the City that will allow OHR to address specific areas of risk, identify absence patterns which may suggest potential abuse, as well as to develop programs that may address absence, health, and wellness strategies to better meet the needs of City employees.

1.14 **Performance Metrics** – The OHR Leave Team should develop performance metrics to help guide its work to ensure it is meeting identified and measurable goals. Among other things, performance metrics could be utilized to assess education and training efforts, the amount of time spent managing FMLA cases, and customer satisfaction.
FINDING 2

City Medical Leave Is Not Clearly Outlined In Office of Human Resources Policies or Established in Career Service Authority Rules

While the City’s definition of immediate family is outlined in Career Service Authority (CSA) rules, options to take leave to care for an extended family member under Denver’s City Medical Leave Policy are not explicitly outlined in the CSA rules or in Office of Human Resources (OHR) guidance. As a result, City Medical Leave is not being implemented consistently by HR teams across the City and employees have limited knowledge of their right to take City Medical Leave to care for an extended family member. Our analysis found relatively low rates of City Medical Leave usage across the City with less than 1 percent of employees taking leave to care for an extended family member. Other states with similarly expanded definitions of immediate family have reported that they have not had problems with the interaction between FMLA and state family leave laws nor have they documented instances of excessive use or abuse.

City Medical Leave Is Not Clearly Outlined in CSA Rules and Is Not Implemented Consistently across the City

City Medical Leave is not explicitly outlined in CSA policies or OHR guidance and the OHR Leave Team confirmed this observation. The City’s definition of immediate family is outlined in CSA Rule 1; however, this rule contains no explicit reference to City Medical Leave nor is there guidance discussing the interaction between City Medical Leave and FMLA. CSA Rule 11, Section 150 states that FMLA may be used to care for an employee’s immediate family member with a serious health condition but does not define immediate family member nor does it reference Rule 1.

OHR personnel told us they are reluctant to explicitly outline the option for employees to take City Medical Leave for fear it will lead employees to take excessive amounts of leave and potentially abuse the system. However, according to the City’s Career Service Rules, the purpose of Rule 11 is to provide guidelines and policies for administering time off through the City’s leave programs.

In the absence of explicit guidance regarding City Medical Leave, employees may be denied the right to take leave they are entitled to under both City policy and federal legislation. Further, the absence of clear guidance means that supervisors and HR staff face limitations in their ability to properly administer time off through the City’s leave programs. Standards for Internal Control in the Federal Government state that agencies should have written documentation, such as detailed policies, procedures, and

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practices, to fit their agency’s operations and to ensure that they are built into, and an integral part of, operations. Management should also communicate quality information to enable personnel to perform key roles in achieving objectives. Further, the absence of written guidance may pose a significant risk to the consistency of the OHR Leave Team’s future operations in the event of staff turnover, changes in leadership, or any other disruption that could lead to a loss of institutional knowledge.

In structured interviews, all of the HR representatives for those agencies with their own HR departments indicated they used the City's expanded definition of immediate family when considering whether an employee would qualify for FMLA to care for a sick family member. However, five of the agencies indicated that it would not occur to them to offer employees an additional twelve weeks of leave in the scenario that the employee first used City Medical Leave for an extended family member and then required leave for a situation that would be covered by FMLA later in the year. The lack of clarity among HR professionals regarding City Medical Leave means that City Medical Leave is not being implemented consistently across the City. This raises questions as to whether employees are being treated equitably across agencies with regard to how leave is administered. Further, the absence of clear guidance means that some employees who take leave to care for an extended family member may be incorrectly informed that they have exhausted their leave for the year when in fact, they would still be eligible for FMLA under certain circumstances.

City Employees Have Limited Knowledge of City Medical Leave and It Is Not Widely Used

In the survey we conducted with City employees, more than 94 percent of respondents knew that the City’s definition of immediate family includes spouse, parents, and children. However, fewer than 48 percent of respondents knew that a grandchild, family of a domestic partner, and in-laws are also considered immediate family under the City’s policies. Survey respondents were given the option to provide additional comments about their experience with how the City administers leave, and several supervisors explicitly asked for clarification about City Medical Leave and the City’s definition of immediate family:

It would be nice, as both a supervisor and an employee, to have training on FMLA. I would particularly like to know who is defined as immediate family under the City's rules.

I still don't quite understand City Medical Leave. I believe it works concurrently with the federal leave.

Our analysis of Kronos data indicates that City Medical Leave is not widely used by City employees. There were an average of forty-four City Medical Leave cases per year between 2012 and 2015. Moreover, there were very few instances where employees used both City Medical Leave and FMLA in the same twelve-month period. In 2012, five employees used both City Medical Leave and FMLA, but all five cases fell well below the

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twelve weeks that would be allowable under FMLA alone. In 2013, there were ten employees who used both FMLA and City Medical Leave and only two of those cases came close to the twelve-week limit that would be allowed under FMLA alone. In 2014, only two City employees used both FMLA and City Medical Leave—one employee took a total of three weeks off using both types of leave and the other employee took a total of five weeks off using both types of leave. Across all three years, there were no cases where an employee exceeded the twelve-week limit allowable under FMLA alone or came close to the twenty-four weeks of leave as would be permissible under current City policy.

**OHR Has Established a Working Group To Review All CSA Rules including City Medical Leave**

OHR has formed a working group to conduct a review of all CSA rules including the rules governing FMLA and City Medical Leave. OHR personnel stated that they fear City Medical Leave may lead to abuse of the system and consequently, they are considering options for eliminating City Medical Leave or narrowing the definition of immediate family under CSA rules. OHR personnel told us that the CSA Board did not fully consider the legal implications of applying the City’s expanded definition of immediate family when FMLA legislation was first introduced in 1993. According to one member of the working group, one potential option being considered is to only allow City employees to take regular sick leave to care for an extended family member but discontinuing the practice of applying the rules governing FMLA to leave used to care for an extended family member. This would mean that City employees could take paid sick leave to care for an extended family member but City employees would not be afforded unpaid, job-protected leave as is currently the case with City Medical Leave.

The OHR Leave Team indicated that because the City currently uses manual data systems to manage FMLA, their system allows employees to regenerate a full bank of twelve weeks of leave at the start of each new leave period. However, they explained that this approach allows employees to “stack” leave—taking leave both at the end of one leave period and at the beginning of the next leave period. They expressed concerns that those employees who are entitled to consecutive use of City Medical Leave and FMLA may take advantage of “stacking” to take excessive amounts of leave. The OHR Leave Team explained that best practices utilized by other organizations only allows employees to regenerate leave on a graduated basis. For example, if an employee’s first FMLA usage was eight hours on February 1, 2014, their total bank of hours would regenerate an additional eight hours on February 1, 2015 instead of the full 480 hours all at once. However, OHR Leave Team staff explained that this approach is too difficult to administer manually and is best managed with an automated system. The acquisition of an automated HRIS data system should help to address this issue and allow the OHR Leave Team to allocate FMLA leave on a graduated basis.

The current low rates of City Medical Leave use may be due in part to the fact that many employees are unaware of the option to take leave to care for an extended family member. However, based on existing data, there is no evidence to support concerns about the risk of abuse of City Medical Leave. The fact that no employee who
has taken both City Medical Leave and FMLA has taken more than twelve weeks of leave, let alone twenty-four weeks of leave as would be allowable under City policy, indicates that there are no cases where employees are taking excessive amounts of leave or attempting to abuse the system.

**Other States with Expanded Definitions of Immediate Family Have Not Documented Abuse**

According to the National Conference of State Legislatures, sixteen states and the District of Columbia have their own family leave laws in place. Of these, twelve have an expanded definition of immediate family in place.\(^{39}\)

We spoke with HR specialists in Oregon, New Jersey, Hawaii, and Maine who all provided observations on their state’s experience with the interaction between FMLA and state family leave laws. For those states with an expanded definition of immediate family that goes beyond what is covered by federal legislation, the interaction between the two laws means that in some cases, employees may be entitled to more than twelve weeks of leave. However, none of the representatives we spoke with indicated there were problems with abuse or excessive leave. For example, in discussing the Oregon Family Leave Act (OFLA), a specialist from Oregon’s Bureau of Labor and Industries indicated that excessive leave or abuse was very rare.\(^{40}\) The specialist indicated that in the majority of cases, the two types of leave will run concurrently as most employees take time off to care for a family member who is covered under both FMLA and the OFLA. However, even in those cases where an employee might qualify for OFLA and FMLA separately, it is rare for employees to take twenty-four weeks of leave because the majority of employees cannot afford to take that much leave in a single year.

The Administrator for Hawaii’s Wage and Standards Division in the Hawaii Department of Labor and Industrial Relations said that Hawaii consists of very family-focused communities and, therefore, the state established an expanded definition of immediate family under its Hawaii Family Leave Act (HFLA).\(^{41}\) The Administrator indicated that they have never had any complaints regarding excessive use due to an employee using HFLA and FMLA consecutively. Similarly, representatives from New Jersey and Maine both stated it is fairly rare that employees use both types of leave.

Other states with expanded definitions of immediate family have clearly outlined which family members are covered under each respective leave law in HR guidance. In some cases, states have also explicitly outlined the interaction between the state’s family leave policy and FMLA. Oregon, for example, has developed extensive guidance on the topic.\(^{42}\)


\(^{40}\) O.R.S. 659A.150.


City Medical Leave presents potential concerns in terms of both transparency and governance. The fact that City Medical Leave is not outlined in CSA rules or OHR guidance means that City employees are not fully informed of their rights under City rules. This may result in some employees being denied access to entitled leave under certain circumstances. Further, the lack of guidance among HR personnel means that City Medical Leave is not being applied consistently across the City. This may also result in inequities in how City employees are being given access to leave. Therefore, OHR should work with the City Attorney’s Office and the CSA Board to explicitly outline City Medical Leave in the CSA rules and establish written guidelines outlining employees’ rights and responsibilities under City Medical Leave. OHR should also ensure that all agencies with their own HR teams are aware of the updated guidance and are applying the rules for City Medical Leave consistently. In developing educational materials for employees and supervisors, the OHR Leave Team should include explicit information about the option for City employees to take leave to care for an extended family member under the City Medical Leave policy.
RECOMMENDATIONS

We offer the following two recommendations related to City Medical Leave.

2.1 **Written Guidance Regarding City Medical Leave** - Working in conjunction with the City Attorney’s Office and the CSA Board, the OHR Executive Director should take steps to ensure that City Medical Leave is explicitly outlined in the CSA rules and establish written guidelines outlining employees’ rights and responsibilities under City Medical Leave.

2.2 **Educational Materials Regarding City Medical Leave** - The OHR Executive Director should ensure that all agencies with their own HR teams are aware of the updated guidance and are applying the rules for City Medical Leave consistently. In developing educational materials for employees and supervisors, the OHR Leave Team should include explicit information about the option for City employees to take leave to care for an extended family member under the City Medical Leave policy.
APPENDIX

Tables Showing All Results from Citywide Survey

As mentioned in the body of this report, the Auditor’s Office designed and executed a survey to identify and understand trends in City employees’ use of Family and Medical Leave Act (FMLA), to identify City employees’ perceptions and knowledge of FMLA and City Medical Leave policies, and to gather information on common reasons that City employees use FMLA.

Demographics of Survey Respondents

<table>
<thead>
<tr>
<th>Please indicate your gender:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
<td>Response</td>
<td>Response</td>
</tr>
<tr>
<td>Male</td>
<td>41.4%</td>
<td>950</td>
</tr>
<tr>
<td>Female</td>
<td>58.6%</td>
<td>1347</td>
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</table>

answered question 2297

<table>
<thead>
<tr>
<th>Please indicate your age:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
<td>Response</td>
<td>Response</td>
</tr>
<tr>
<td>18-25</td>
<td>1.9%</td>
<td>44</td>
</tr>
<tr>
<td>26-30</td>
<td>8.4%</td>
<td>194</td>
</tr>
<tr>
<td>31-40</td>
<td>25.5%</td>
<td>586</td>
</tr>
<tr>
<td>41-50</td>
<td>29.3%</td>
<td>674</td>
</tr>
<tr>
<td>51-64</td>
<td>32.2%</td>
<td>740</td>
</tr>
<tr>
<td>65 or older</td>
<td>2.6%</td>
<td>59</td>
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</table>

answered question 2297

<table>
<thead>
<tr>
<th>How many years have you worked for the City and County of Denver?</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Answer Options</td>
<td>Response</td>
<td>Response</td>
</tr>
<tr>
<td>Less than one year</td>
<td>9.7%</td>
<td>221</td>
</tr>
<tr>
<td>1-4 years</td>
<td>24.3%</td>
<td>550</td>
</tr>
<tr>
<td>5-9 years</td>
<td>19.7%</td>
<td>446</td>
</tr>
<tr>
<td>10-14 years</td>
<td>12.0%</td>
<td>273</td>
</tr>
<tr>
<td>15-25 years</td>
<td>24.5%</td>
<td>555</td>
</tr>
<tr>
<td>25 years or more</td>
<td>9.8%</td>
<td>223</td>
</tr>
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</table>

answered question 2268

<table>
<thead>
<tr>
<th>What is your marital status?</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
<td>Response</td>
<td>Response</td>
</tr>
<tr>
<td>Single</td>
<td>35.1%</td>
<td>796</td>
</tr>
<tr>
<td>Married</td>
<td>60.6%</td>
<td>1374</td>
</tr>
<tr>
<td>Domestic partnership</td>
<td>4.3%</td>
<td>98</td>
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answered question 2268

<table>
<thead>
<tr>
<th>Please indicate your employment type:</th>
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</thead>
<tbody>
<tr>
<td>Answer Options</td>
<td>Response</td>
<td>Response</td>
</tr>
<tr>
<td>Salaried/Exempt</td>
<td>53.3%</td>
<td>1224</td>
</tr>
<tr>
<td>Hourly/Non-Exempt</td>
<td>45.5%</td>
<td>1045</td>
</tr>
<tr>
<td>On-Call/Temp</td>
<td>1.0%</td>
<td>22</td>
</tr>
<tr>
<td>Independent Contractor</td>
<td>0.3%</td>
<td>6</td>
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answered question 2297

<table>
<thead>
<tr>
<th>What is your ethnicity?</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
<td>Response</td>
<td>Response</td>
</tr>
<tr>
<td>White</td>
<td>59.3%</td>
<td>1328</td>
</tr>
<tr>
<td>Hispanic</td>
<td>21.9%</td>
<td>490</td>
</tr>
<tr>
<td>Black/African-American</td>
<td>8.8%</td>
<td>196</td>
</tr>
<tr>
<td>Asian</td>
<td>2.0%</td>
<td>45</td>
</tr>
<tr>
<td>Native American/American Indian</td>
<td>0.9%</td>
<td>20</td>
</tr>
<tr>
<td>Native Hawaiian or Pacific Islander</td>
<td>0.3%</td>
<td>7</td>
</tr>
<tr>
<td>Multiple Races</td>
<td>4.1%</td>
<td>92</td>
</tr>
<tr>
<td>Other</td>
<td>2.7%</td>
<td>60</td>
</tr>
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</table>

answered question 2238
Demographics of Survey Respondents (continued)

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
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<tbody>
<tr>
<td>Auditor's Office</td>
<td>1.1%</td>
</tr>
<tr>
<td>Board of Ethics</td>
<td>0.0%</td>
</tr>
<tr>
<td>City Attorney's Office</td>
<td>2.8%</td>
</tr>
<tr>
<td>City Council</td>
<td>0.4%</td>
</tr>
<tr>
<td>Civil Service Commission</td>
<td>0.1%</td>
</tr>
<tr>
<td>Community Planning and Development</td>
<td>2.4%</td>
</tr>
<tr>
<td>County Court</td>
<td>2.4%</td>
</tr>
<tr>
<td>Denver Art Museum</td>
<td>0.0%</td>
</tr>
<tr>
<td>Denver Arts and Venues</td>
<td>0.6%</td>
</tr>
<tr>
<td>Denver County Court</td>
<td>1.0%</td>
</tr>
<tr>
<td>Denver Fire Department</td>
<td>0.4%</td>
</tr>
<tr>
<td>Denver Health Medical Center</td>
<td>0.0%</td>
</tr>
<tr>
<td>Denver Human Services</td>
<td>14.6%</td>
</tr>
<tr>
<td>Denver International Airport</td>
<td>0.1%</td>
</tr>
<tr>
<td>Denver Public Library</td>
<td>11.7%</td>
</tr>
<tr>
<td>Denver Public Works</td>
<td>6.7%</td>
</tr>
<tr>
<td>Denver Police Department</td>
<td>13.6%</td>
</tr>
<tr>
<td>Denver Sheriff Department</td>
<td>7.8%</td>
</tr>
<tr>
<td>Department of Environmental Health</td>
<td>2.6%</td>
</tr>
<tr>
<td>Department of Excise and Licenses</td>
<td>0.4%</td>
</tr>
<tr>
<td>Department of Finance</td>
<td>7.1%</td>
</tr>
<tr>
<td>Department of Safety (Other)</td>
<td>3.1%</td>
</tr>
<tr>
<td>District Attorney</td>
<td>0.0%</td>
</tr>
<tr>
<td>Facilities Planning and Management</td>
<td>0.7%</td>
</tr>
<tr>
<td>General Services</td>
<td>1.2%</td>
</tr>
<tr>
<td>Human Rights and Community Partnerships</td>
<td>0.2%</td>
</tr>
<tr>
<td>Mayor's Office (Other)</td>
<td>0.7%</td>
</tr>
<tr>
<td>Office of Clerk and Recorder</td>
<td>0.8%</td>
</tr>
<tr>
<td>Office of Economic Development</td>
<td>4.1%</td>
</tr>
<tr>
<td>Office of Emergency Management</td>
<td>0.4%</td>
</tr>
<tr>
<td>Office of the Independent Monitor</td>
<td>0.2%</td>
</tr>
<tr>
<td>Office of Human Resources</td>
<td>2.7%</td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>3.8%</td>
</tr>
<tr>
<td>Technology Services</td>
<td>4.0%</td>
</tr>
<tr>
<td>Zoning</td>
<td>0.1%</td>
</tr>
<tr>
<td>Other</td>
<td>1.7%</td>
</tr>
</tbody>
</table>

Do you have children or other dependents (i.e., elderly parents in need of care)?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>56.5%</td>
<td>1281</td>
</tr>
<tr>
<td>No</td>
<td>43.5%</td>
<td>987</td>
</tr>
</tbody>
</table>

What is the highest level of education you have completed?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some high school, no diploma</td>
<td>0.2%</td>
<td>5</td>
</tr>
<tr>
<td>High school graduate, diploma or the equivalent (for example: GED)</td>
<td>7.1%</td>
<td>159</td>
</tr>
<tr>
<td>Some college credit, no degree</td>
<td>21.2%</td>
<td>476</td>
</tr>
<tr>
<td>Trade/technical/vocational training</td>
<td>3.0%</td>
<td>68</td>
</tr>
<tr>
<td>Master's degree</td>
<td>21.6%</td>
<td>485</td>
</tr>
<tr>
<td>Doctorate degree</td>
<td>2.4%</td>
<td>55</td>
</tr>
<tr>
<td>Bachelor's degree</td>
<td>34.8%</td>
<td>783</td>
</tr>
<tr>
<td>Associate degree</td>
<td>8.8%</td>
<td>198</td>
</tr>
<tr>
<td>Other</td>
<td>0.9%</td>
<td>20</td>
</tr>
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</table>

answered question 2249
### Had you heard of FMLA prior to taking this survey?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>96.2%</td>
<td>2109</td>
</tr>
<tr>
<td>No</td>
<td>3.8%</td>
<td>83</td>
</tr>
</tbody>
</table>

answered question 2192

### How did you first learn about FMLA?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>I was familiar with FMLA prior to coming to work for the City and County of Denver</td>
<td>41.6%</td>
<td>911</td>
</tr>
<tr>
<td>New employee orientation</td>
<td>8.3%</td>
<td>181</td>
</tr>
<tr>
<td>Literature provided at the start of employment (i.e., employee handbook)</td>
<td>3.6%</td>
<td>78</td>
</tr>
<tr>
<td>FMLA posters in common areas and on bulletin boards at my workplace</td>
<td>2.1%</td>
<td>47</td>
</tr>
<tr>
<td>Information provided by HR representative</td>
<td>16.0%</td>
<td>351</td>
</tr>
<tr>
<td>Information provided by my supervisor</td>
<td>7.4%</td>
<td>163</td>
</tr>
<tr>
<td>The City website</td>
<td>1.8%</td>
<td>39</td>
</tr>
<tr>
<td>I was not familiar with FMLA prior to this survey</td>
<td>3.6%</td>
<td>80</td>
</tr>
<tr>
<td>Other</td>
<td>15.6%</td>
<td>342</td>
</tr>
</tbody>
</table>

answered question 2192

### I can qualify for FMLA under the following situations (check all that apply):

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>To care for a newborn child</td>
<td>95.6%</td>
<td>2090</td>
</tr>
<tr>
<td>To care for a newly placed foster child</td>
<td>70.7%</td>
<td>1550</td>
</tr>
<tr>
<td>To attend an annual check-up or health screening</td>
<td>10.8%</td>
<td>237</td>
</tr>
<tr>
<td>To care for a sick uncle</td>
<td>23.5%</td>
<td>515</td>
</tr>
<tr>
<td>To care for a same sex spouse with a serious health condition</td>
<td>79.2%</td>
<td>1737</td>
</tr>
</tbody>
</table>

answered question 2192

### How familiar were you with FMLA prior to taking this survey?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Familiar</td>
<td>36.3%</td>
<td>795</td>
</tr>
<tr>
<td>Somewhat Familiar</td>
<td>54.1%</td>
<td>1186</td>
</tr>
<tr>
<td>Not Familiar at All</td>
<td>9.6%</td>
<td>211</td>
</tr>
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</table>

answered question 2192

### According to CSA Rules for the City and County of Denver, the definition of immediate family includes the following (check all that apply):  

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse</td>
<td>99.0%</td>
<td>2170</td>
</tr>
<tr>
<td>Biological Child</td>
<td>97.8%</td>
<td>2143</td>
</tr>
<tr>
<td>Adopted Child</td>
<td>93.2%</td>
<td>2042</td>
</tr>
<tr>
<td>Foster Child</td>
<td>71.8%</td>
<td>1573</td>
</tr>
<tr>
<td>Parent</td>
<td>93.6%</td>
<td>2052</td>
</tr>
<tr>
<td>Grandparent</td>
<td>51.2%</td>
<td>1123</td>
</tr>
<tr>
<td>Grandchild</td>
<td>47.6%</td>
<td>1043</td>
</tr>
<tr>
<td>Sibling</td>
<td>61.3%</td>
<td>1343</td>
</tr>
<tr>
<td>Son-in-law/ Daughter-in-law</td>
<td>30.6%</td>
<td>670</td>
</tr>
<tr>
<td>Mother-in-law/Father-in-law</td>
<td>32.3%</td>
<td>708</td>
</tr>
<tr>
<td>Brother-in-law/Sister-in-law</td>
<td>25.2%</td>
<td>553</td>
</tr>
<tr>
<td>Domestic Partner</td>
<td>73.1%</td>
<td>1602</td>
</tr>
<tr>
<td>Aunt/Uncle</td>
<td>12.5%</td>
<td>275</td>
</tr>
<tr>
<td>Niece/Nephew</td>
<td>11.4%</td>
<td>249</td>
</tr>
<tr>
<td>Immediate family of domestic partner</td>
<td>38.8%</td>
<td>851</td>
</tr>
</tbody>
</table>

answered question 2192
If I request FMLA leave, the Office of Human Resources (check all that apply):

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Must provide a reason if my leave is denied under FMLA</td>
<td>86.7%</td>
<td>1833</td>
</tr>
<tr>
<td>Must continue my health insurance</td>
<td>72.4%</td>
<td>1532</td>
</tr>
<tr>
<td>May contact my doctor and confirm my health condition</td>
<td>67.3%</td>
<td>1424</td>
</tr>
<tr>
<td>Will inform my supervisor of my medical reason for requesting FMLA</td>
<td>37.7%</td>
<td>797</td>
</tr>
</tbody>
</table>

answered question 2115

If I apply for FMLA, my supervisor must (check all that apply):

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitor the status of my health condition</td>
<td>15.2%</td>
<td>321</td>
</tr>
<tr>
<td>Approve my request to take FMLA</td>
<td>41.9%</td>
<td>887</td>
</tr>
<tr>
<td>Get documentation from my doctor</td>
<td>29.9%</td>
<td>633</td>
</tr>
<tr>
<td>Ensure that my leave is recorded in Kronos</td>
<td>86.0%</td>
<td>1818</td>
</tr>
</tbody>
</table>

answered question 2115

Please indicate whether the following statements are true or false:

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>True</th>
<th>False</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMLA must be taken all at once</td>
<td>149</td>
<td>1966</td>
<td>2115</td>
</tr>
<tr>
<td>Your Department can deny your request for FMLA leave if they can demonstrate that it presents a hardship to your office</td>
<td>437</td>
<td>1678</td>
<td>2115</td>
</tr>
<tr>
<td>I can qualify for FMLA once I complete my six months' probation period</td>
<td>1407</td>
<td>708</td>
<td>2115</td>
</tr>
<tr>
<td>An approved FMLA absence affords me the right to return to the same position or a position almost identical to my job</td>
<td>1985</td>
<td>130</td>
<td>2115</td>
</tr>
</tbody>
</table>

answered question 2115
Perspectives on FMLA

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>12.9%</td>
<td>265</td>
</tr>
<tr>
<td>No</td>
<td>87.1%</td>
<td>1791</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If yes, what was the primary reason you did not take leave?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
</tr>
<tr>
<td>Couldn’t financially afford to take time off</td>
</tr>
<tr>
<td>Concerned about how my coworkers would manage our workload without me</td>
</tr>
<tr>
<td>Worried that it would negatively impact my performance appraisal or chance for promotion</td>
</tr>
<tr>
<td>Not eligible to take leave</td>
</tr>
<tr>
<td>Fear of losing my job</td>
</tr>
<tr>
<td>Employer denied my request</td>
</tr>
<tr>
<td>Not applicable</td>
</tr>
<tr>
<td>Other</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Please rate the following statements:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
</tr>
<tr>
<td>I have a good understanding of the circumstances under which I can apply for FMLA</td>
</tr>
<tr>
<td>I know who to contact and what steps need to be taken to request FMLA</td>
</tr>
<tr>
<td>I feel comfortable that my supervisor would be supportive if I needed to take FMLA</td>
</tr>
<tr>
<td>I feel comfortable that my management would be supportive if I needed to take FMLA</td>
</tr>
<tr>
<td>I feel that I have been sufficiently educated about my rights and responsibilities under FMLA</td>
</tr>
</tbody>
</table>
## Perspectives on FMLA (continued)

<table>
<thead>
<tr>
<th>Please rate the following statements:</th>
<th>Strongly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>I feel there would be negative consequences from my supervisor if I needed to take FMLA</td>
<td>55.73%</td>
<td>26.84%</td>
<td>13.02%</td>
<td>4.41%</td>
</tr>
<tr>
<td>I feel there would be negative consequences from my management if I needed to take FMLA</td>
<td>47.87%</td>
<td>28.69%</td>
<td>17.13%</td>
<td>6.31%</td>
</tr>
<tr>
<td>My colleagues would be supportive of me if I took FMLA leave</td>
<td>6.41%</td>
<td>11.47%</td>
<td>40.06%</td>
<td>42.06%</td>
</tr>
<tr>
<td>When my colleagues take FMLA leave, it creates more work for me and others in my Department</td>
<td>9.71%</td>
<td>19.98%</td>
<td>50.18%</td>
<td>20.13%</td>
</tr>
<tr>
<td>I feel that the Office of Human Resources and/or my HR leave representative would manage my FMLA leave request properly</td>
<td>5.81%</td>
<td>9.36%</td>
<td>43.87%</td>
<td>40.96%</td>
</tr>
</tbody>
</table>

Answered question 1997

<table>
<thead>
<tr>
<th>Please rate the following statements:</th>
<th>Strongly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMLA costs my Department in terms of lost productivity</td>
<td>14.67%</td>
<td>28.84%</td>
<td>43.87%</td>
<td>12.62%</td>
</tr>
<tr>
<td>The majority of City employees use FMLA leave for legitimate reasons</td>
<td>3.10%</td>
<td>9.36%</td>
<td>52.08%</td>
<td>35.45%</td>
</tr>
<tr>
<td>The City takes adequate steps to protect employees’ rights under FMLA</td>
<td>2.60%</td>
<td>8.41%</td>
<td>54.68%</td>
<td>34.30%</td>
</tr>
<tr>
<td>The City provides adequate information on FMLA for employees</td>
<td>8.86%</td>
<td>25.49%</td>
<td>46.02%</td>
<td>19.63%</td>
</tr>
</tbody>
</table>

Answered question 1997
Experience with FMLA

<table>
<thead>
<tr>
<th>Have you taken FMLA while employed by the City and County of Denver?</th>
<th>My FMLA case was managed by (check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Answer Options</strong></td>
<td><strong>Response Percent</strong></td>
</tr>
<tr>
<td>Yes</td>
<td>42.4%</td>
</tr>
<tr>
<td>No</td>
<td>57.6%</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>answered question</strong></td>
<td><strong>1995</strong></td>
</tr>
</tbody>
</table>

Please rate the following statement:

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Strongly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am happy with the administration and oversight of my FMLA case.</td>
<td>5.48%</td>
<td>8.16%</td>
<td>30.69%</td>
<td>55.66%</td>
</tr>
<tr>
<td><strong>answered question</strong></td>
<td><strong>821</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

While on FMLA (check all that apply):

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>I used paid time off (or annual leave)</td>
<td>61.8%</td>
<td>507</td>
</tr>
<tr>
<td>I used sick leave</td>
<td>72.5%</td>
<td>595</td>
</tr>
<tr>
<td>I used short-term disability</td>
<td>35.6%</td>
<td>292</td>
</tr>
<tr>
<td>I used leave without pay</td>
<td>24.8%</td>
<td>204</td>
</tr>
<tr>
<td>Other</td>
<td>9.9%</td>
<td>81</td>
</tr>
<tr>
<td><strong>answered question</strong></td>
<td><strong>821</strong></td>
<td></td>
</tr>
</tbody>
</table>

For what reason did you take FMLA?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>My own personal health reason</td>
<td>39.7%</td>
<td>326</td>
</tr>
<tr>
<td>Maternity leave</td>
<td>17.2%</td>
<td>141</td>
</tr>
<tr>
<td>Paternity leave</td>
<td>8.0%</td>
<td>66</td>
</tr>
<tr>
<td>To care for a sick parent</td>
<td>15.3%</td>
<td>126</td>
</tr>
<tr>
<td>To care for a sick spouse</td>
<td>6.2%</td>
<td>51</td>
</tr>
<tr>
<td>To care for a sick child</td>
<td>5.7%</td>
<td>47</td>
</tr>
<tr>
<td>Prefer not to say</td>
<td>1.9%</td>
<td>16</td>
</tr>
<tr>
<td>Other</td>
<td>5.8%</td>
<td>48</td>
</tr>
<tr>
<td><strong>answered question</strong></td>
<td><strong>821</strong></td>
<td></td>
</tr>
</tbody>
</table>

The Office of Human Resources Leave Team (or my Agency’s HR representative):

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Strongly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clearly outlined my rights and responsibilities under FMLA</td>
<td>6.27%</td>
<td>12.18%</td>
<td>38.87%</td>
<td>42.68%</td>
</tr>
<tr>
<td>Provided me with all of the necessary information I needed regarding my use of FMLA</td>
<td>5.54%</td>
<td>9.35%</td>
<td>37.52%</td>
<td>47.60%</td>
</tr>
<tr>
<td>Met my expectations in processing my request for FMLA leave</td>
<td>5.66%</td>
<td>6.77%</td>
<td>34.07%</td>
<td>53.51%</td>
</tr>
<tr>
<td><strong>answered question</strong></td>
<td><strong>813</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Experience with FMLA (continued)

<table>
<thead>
<tr>
<th>On a scale from Strongly Disagree to Strongly Agree, my direct supervisor:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
</tr>
<tr>
<td>Did not discriminate or retaliate against me upon my return to work</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Please rate the following statements:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
</tr>
<tr>
<td>While on FMLA leave, I found it difficult to keep track of the number of hours of FMLA leave I had left</td>
</tr>
<tr>
<td>I understood the process for providing certification from my doctor</td>
</tr>
<tr>
<td>I understood the process for managing my pay and benefits while on FMLA</td>
</tr>
<tr>
<td>I understood the process for reporting the time I took off while on FMLA</td>
</tr>
<tr>
<td>When I returned to work after being off under FMLA leave, the transition back to work was positive</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Please respond to the following statements:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
</tr>
<tr>
<td>I returned to the same position when I returned from FMLA</td>
</tr>
<tr>
<td>I returned to a different, but equivalent position when I returned from FMLA</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall, I was satisfied with the way my FMLA case was managed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer Options</td>
</tr>
<tr>
<td>True</td>
</tr>
<tr>
<td>False</td>
</tr>
</tbody>
</table>

answered question 813
## Supervisor Experience with FMLA

### I am currently a supervisor responsible for managing the work of one or more employees.

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>23.0%</td>
<td>451</td>
</tr>
<tr>
<td>No</td>
<td>77.0%</td>
<td>1510</td>
</tr>
</tbody>
</table>

**answered question: 1961**

### As a City supervisor, I have supervised an employee who took time off on an approved FMLA leave.

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>71.7%</td>
<td>320</td>
</tr>
<tr>
<td>No</td>
<td>28.3%</td>
<td>126</td>
</tr>
</tbody>
</table>

**answered question: 446**

### Beyond what is written in OHR policies and CSA rules, have you received any additional education or training on managing FMLA for your employees while employed by the City and County of Denver?

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>34.1%</td>
<td>152</td>
</tr>
<tr>
<td>No</td>
<td>65.9%</td>
<td>294</td>
</tr>
</tbody>
</table>

**answered question: 446**

### The last time I had an employee under my supervision on FMLA:

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Strongly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Strongly Agree</th>
<th>I have not had an employee on FMLA</th>
</tr>
</thead>
<tbody>
<tr>
<td>I understood my responsibilities related to monitoring/managing FMLA for that employee</td>
<td>4.04%</td>
<td>8.74%</td>
<td>31.61%</td>
<td>31.84%</td>
<td>23.77%</td>
</tr>
<tr>
<td>I understood the Federal rules governing eligibility for FMLA</td>
<td>3.36%</td>
<td>10.99%</td>
<td>36.77%</td>
<td>26.91%</td>
<td>21.97%</td>
</tr>
<tr>
<td>I understood the City's guidelines for administering FMLA</td>
<td>3.36%</td>
<td>11.43%</td>
<td>35.20%</td>
<td>27.35%</td>
<td>22.65%</td>
</tr>
<tr>
<td>I understood the process for submitting Time and Attendance Change forms (or applicable procedures for tracking leave in my department) for the employee on FMLA</td>
<td>6.05%</td>
<td>9.42%</td>
<td>31.61%</td>
<td>30.49%</td>
<td>22.42%</td>
</tr>
</tbody>
</table>

**answered question: 446**

### Please rate the following statements:

<table>
<thead>
<tr>
<th>Answer Options</th>
<th>Strongly Disagree</th>
<th>Somewhat Disagree</th>
<th>Somewhat Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The OHR Leave Team (or my Agency's HR representative) provides adequate guidance and information to those employees (and their supervisors) who take FMLA</td>
<td>4.93%</td>
<td>17.04%</td>
<td>43.50%</td>
<td>34.53%</td>
</tr>
<tr>
<td>The OHR Leave Team (or my Agency's HR representative) provides adequate support related to the administration of FMLA leave</td>
<td>5.38%</td>
<td>13.90%</td>
<td>45.74%</td>
<td>34.98%</td>
</tr>
<tr>
<td>There is adequate education and training for supervisors on FMLA</td>
<td>10.99%</td>
<td>32.29%</td>
<td>43.27%</td>
<td>13.45%</td>
</tr>
<tr>
<td>There is adequate education and training for employees on FMLA</td>
<td>10.31%</td>
<td>34.30%</td>
<td>42.83%</td>
<td>12.56%</td>
</tr>
</tbody>
</table>

**answered question: 446**
AGENCY RESPONSE

July 29, 2015

Mr. Kip R. Memmott, MA, CGAP, CRMA
Director of Audit Services
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. Memmott:

The Office of the Auditor conducted a performance audit of the Family and Medical Leave Act Administration that commenced on February 5, 2015.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on July 9, 2015. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1

While the Office of Human Resources Has Taken Significant Steps to Improve the Oversight and Administration of FMLA, Further Actions are Needed to Overcome Remaining Challenges.

RECOMMENDATION 1.1

Process Inefficiencies - The OHR Leave Team should work with payroll staff to streamline the intermittent FMLA absence reporting process and eliminate duplication of efforts related to reviewing FMLA usage against certified parameters. Additionally, as the roles and responsibilities of the new OHR Leave Team continue to evolve, the OHR Leave Team should work with payroll staff to explore other areas where duplication of effort can be eliminated.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>September 30, 2015</td>
<td>Marilyn Carroll 720-913-8532</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.1:
We agree with the recommendation. We will identify any duplication of efforts with payroll and develop new procedures to streamline the FMLA coordination and reporting process. We will continue to meet regularly with payroll to identify areas that can be streamlined or eliminated and revise processes and procedures accordingly as the FMLA team support expands and evolves.

RECOMMENDATION 1.2

Coordination and Consultation with City HR Personnel - The OHR Leave Team should establish regular meetings with HR personnel across the City, including those agencies with their own leave teams in order to provide opportunities for increased consultation and coordination related to the administration of FMLA and other types of leave.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>October 31, 2015 and ongoing</td>
<td>Marilyn Carroll 720-913-8532</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.2:

We agree with this recommendation. The OHR Leave Team will host regular meetings with HR personnel across the City to discuss and consult about FMLA and other types of leave regulations, process improvement and education in order to provide increased coordination and consistency in FMLA administration. We anticipate this recommendation will be ongoing as City HR and payroll personnel and FMLA legislation changes.

RECOMMENDATION 1.3

Employee Education – The OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the rights and responsibilities of employees under FMLA. In addition to outlining the basic terms of FMLA leave, the guidance should include a list of resources of where employees can learn more detailed information as well as the names of HR staff that can provide assistance should they need to apply for FMLA. The OHR Leave Team should identify a variety of means for distributing educational materials to employees such as posting information on the Denver.One.Team website, offering occasional lunch-and-learns, or sharing information through citywide emails and newsletters.

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<tr>
<td>Agree</td>
<td>October 31, 2015 and ongoing</td>
<td>Marilyn Carroll 720-913-8532</td>
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</table>
Narrative for Recommendation 1.3:

We agree with this recommendation. The OHR Leave Team will develop user-friendly website and written communication for employees about FMLA. We will use our marketing and communications department to assist with identifying the best method(s) for dissemination of FMLA information. We will publish information about the FMLA in at least one of the City’s communications by the target date. We anticipate the FMLA employee education initiative will be an ongoing process of development to identify how best to communicate the FMLA as rules and regulations or City personnel may change. We are in the process of developing an employee brochure that explains FMLA to educate employees on their rights under FMLA. We anticipate the FMLA employee education initiative will be an ongoing process of development to identify how best to communicate the FMLA and incorporate changes in legislation.

RECOMMENDATION 1.4

Supervisor Education – The OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the responsibilities of supervisors under FMLA. The guidance should cover supervisors’ responsibilities with regard to monitoring FMLA, communicating with employees and HR personnel, and provide information on what is and is not an acceptable use of FMLA, including steps to follow if fraud or abuse is suspected. The OHR leave Team should also identify a variety of means for distributing educational materials to supervisors such as posting information on the Denver.One.Team website, offering occasional lunch-and-learns, or sharing information through citywide emails and newsletters.

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Narrative for Recommendation 1.4:

We agree with this recommendation. The OHR Leave Team has conducted formal in-class training with several manager groups in 2015 about FMLA and supervisor responsibilities. These classes are user-friendly and provide a forum for discussion and question and answer about specific FMLA situations. However, we realize the need to reach more supervisors. We are in the process of developing a brochure for supervisors that explains basic information about FMLA and supervisor responsibilities when an employee is on FMLA to compliment these live training sessions. We plan to use our marketing and communications department and our learning and development department to assist in identifying methods of communication and the proper learning environment for FMLA for supervisors. We anticipate the FMLA supervisor education initiative will be an ongoing process of development to identify how best to communicate the FMLA and incorporate changes in legislation.
RECOMMENDATION 1.7

Security of OHR Files – The OHR Executive Director should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order to ensure that personal and medical information of City employees is adequately protected.

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<tr>
<td>Agree</td>
<td>Completed</td>
<td>Karen Niparko 720-913-5830</td>
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Narrative for Recommendation 1.7:

We agree with the recommendation. The shared drive has been reviewed with Technical Services to ensure access rights are restricted to those employees authorized to process FMLA and/or ADA leave.

RECOMMENDATION 1.10

Automated HRIS – We recommend that the OHR Executive Director ensures that an automated HRIS is acquired that would allow for more consistent and secure management of FMLA cases across the City.

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<td>Agree</td>
<td>October 31, 2015</td>
<td>Karen Niparko 720-913-5830</td>
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Narrative for Recommendation 1.10:

We agree with the recommendation. The OHR has proposed a 2016 budget item for an automated HRIS system to administer and manage the FMLA program. We are proposing the use of Qcera, the software currently being used by the Department of Human Services. We anticipate budget approval by October 30, 2015 or sooner. The HRIS system, if approved, would not be implemented until the funds are released in 2016. If funds become available in 2015, we will implement the software as soon as possible.
RECOMMENDATION 1.11

HRIS Capabilities and Citywide Utilization – The OHR Leave Team should ensure that the HRIS at a minimum, has the following capabilities; established FMLA governance rules included for consistent management automated communications to stakeholders, a dashboard for enhanced monitoring of Cases, automatically sets tasks for follow-up, interfaces with Kronos, stores data and communications in a secure environment, and advanced data analytics and reporting capabilities. Once the HRIS is acquired, the OHR Leave Team should communicate with those City agencies that have their own leave team to ensure they are aware of the capabilities of the new system and encourage citywide utilization.

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<tr>
<td>Agree</td>
<td>March 31, 2016</td>
<td>Marilyn Carroll 720-913-8332</td>
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Narrative for Recommendation 1.11:

We agree with the recommendation. The OHR Leave Team has examined two software applications for FMLA administration: Kronos which is the current City-wide timekeeping system used by payroll and Qcera, an FMLA administration system used only by the Department of Human Services. We have had two demonstrations of each system. Qcera is the more robust of the two systems and since Qcera meets the recommended criteria, we have initiated a project with Technical Services for a Qcera expansion to OHR. Because of the additional cost, the expansion will need to be approved and may not be implemented until the 2016 budget year. Once we initiate and are trained on the FMLA system, we will communicate with the other independent HR organizations to encourage implementation of the same system. The OHR leave administration team will serve as a resource for ongoing education and training for other HR personnel handling FMLA in the City. The March target date is contingent upon whether Qcera will be approved for the 2016 budget.
Standardized Data Queries – The OHR Leave Team should work with the Senior ERP Systems Analyst in the Controller’s Office to develop standardized data reports that can be generated on a recurring basis that would provide complete and pertinent FMLA data that can be analyzed in a meaningful manner.

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<td>September 30, 2015</td>
<td>Marilyn Carroll 720-913-8532</td>
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Narrative for Recommendation 1.12

We agree with the recommendation. The OHR Leave Team will meet with the Senior ERP Systems Analyst in the Controller’s Office as well as the OHR internal analytics specialists to design standardized data reports with metrics for performance analysis for regular review and analysis of trends, performance and identify any problem areas for further review and action.

RECOMMENDATION 1.13

Data Analytics – The OHR Leave Team should use FMLA data analytics to track trends in FMLA usage across the City that will allow OHR to address specific areas of risk, identify absence patterns which may suggest potential abuse, as well as to develop programs that may address absence, health, and wellness strategies to better meet the needs of City employees.

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<td>March 31, 2016</td>
<td>Marilyn Carroll 720-913-8532</td>
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Narrative for Recommendation 1.13:

We agree with the recommendation. Currently, the OHR Leave Team uses Excel spreadsheets to manually track and manage FMLA absence patterns, trends and actions. With the proposed addition of software, the OHR leave team will have regular, daily access to a dashboard of valuable information such as areas of risk and reasons for absence. This will allow us to identify absence patterns and trends.
sooner for follow-up action. This information can be shared with leadership and managers for better departmental oversight of FMLA and its impact on peak performance. We also expect to make recommendations for health, wellness and behavioral strategies City-wide based on FMLA usage patterns and reasons. The OHR Leave Team will continue to examine best practices and consult with other jurisdictions on their FMLA leave administration practices for ongoing process improvement.

RECOMMENDATION 1.14

Performance Metrics - The OHR Leave Team should develop performance metrics to help guide its work to ensure it is meeting identified and measurable goals. Among other things, performance metrics could be utilized to assess education and training efforts, the amount of time spent managing FMLA cases, and customer satisfaction.

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Narrative for Recommendation 1.14

We agree with this recommendation. The OHR Leave Team has currently developed performance metrics and best practices in order to be compliant with Federal standards. In most cases, our metrics and standards are more stringent than the Federal standards. These performance metrics are measured by conducting FMLA case audits for quality and compliance. We plan to develop more robust metrics and analysis with the implementation of the Qcera software and working in partnership with our internal analytics team.
AUDIT FINDING 2

City Medical Leave Is Not Clearly Outlined in OHR Policies or Established in CSA Rules.

RECOMMENDATION 2.1

Written Guidance Regarding City Medical Leave – Working in conjunction with the City Attorney’s Office and the CSA Board, the OHR Executive Director should take steps to ensure that City Medical Leave is explicitly outlined in the CSA rules and establish written guidelines outlining employees’ rights and responsibilities under City Medical Leave.

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<td>Agree</td>
<td>October 31, 2015</td>
<td>Karen Niparko 720-913-5830</td>
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Narrative for Recommendation 2.1

We agree with this recommendation. The OHR Executive Director will work with the City Attorney’s office to update the rules and establish written guidelines outlining employees’ leave rights and responsibilities as appropriate.

RECOMMENDATION 2.2

Educational Materials Regarding City Medical Leave – The OHR Executive Director should ensure that all agencies with their own HR teams are aware of the updated guidance and are applying the rules for City Medical Leave consistently. In developing educational materials for employees and supervisors, the OHR Leave Team should include explicit information about the option for City employees to take leave to care for an extended family member under the City Medical Leave policy.

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<tr>
<td>Agree</td>
<td>February 29, 2016</td>
<td>Karen Niparko 720-913-5830</td>
</tr>
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</table>
Narrative for Recommendation 2.2

We agree with this recommendation. The OHR Executive Director will ensure the appropriate HR teams are aware of the guidance and coordinate with the OHR leave team to apply it consistently. Additionally, we will ensure the educational materials are thorough and easy to understand.

Please contact me at 720-913-5830 or cell 720-530-1350 if you have any questions or need further clarification.

Sincerely,

Karen Niparko
Executive Director
Office of Human Resources

cc: CSA Board of Directors
    Rory McLuster, Deputy Director, OHR
    Marilyn Carroll, Leave Admin Manager
    Beth Machann, City Controller
    Sonia Montano, Internal Audit Supervisor
July 22, 2015

Mr. Kip R. Memmott, MA, CGAP, CRMA
Director of Audit Services
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. Memmott:

The Office of the Auditor has conducted a performance audit of the Family and Medical Leave Act Administration.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on July 9, 2015. This response complies with Section 20-275 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1
While the Office of Human Resources Has Taken Significant Steps to Improve the Oversight and Administration of FMLA, Further Actions are Needed to Overcome Remaining Challenges

RECOMMENDATION 1.5
Kronos Coding — Payroll staff should develop reconciliation procedures that identify and correct City Medical Leave usage that is assigned incorrect leave codes and correct leave cases that are assigned erroneous case and dates in Kronos.

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<tr>
<td>Agree</td>
<td>Complete</td>
<td>Bonnie Johnson 720-913-5205</td>
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Narrative for Recommendation 1.5
We agree with the recommendation. All Extended Family (City Medical Leave) usage has been corrected. None of the inaccurate posting resulted in a loss of available usage. The payroll procedures have been updated to reflect the difference in FMLA and Extended Family (City Medical Leave) Usage.

RECOMMENDATION 1.6
Payroll’s Policies and Procedures — Payroll staff should develop more robust written policies and procedures related to FMLA administration that, at a minimum, provide an overview of payroll staff’s roles and responsibilities as they relate to the administration of FMLA, specific workflow processes for determining what needs to be entered into...
Kronos, applying leave codes to FMLA and City Medical Leave usage in Kronos, coordinating with the OHR Leave Team and supervisors, and saving documentation securely.

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<td>Bonnie Johnson 720-913-5205</td>
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Narrative for Recommendation 1.6
We agree with the recommendation. Staff will review and update procedures and policies, provide better workflow processes, breakdown of Kronos codes and how they should be applied to cases and coordinated with the OHR Leave Team. In addition, we’ll ensure policies include how to secure documentation.

RECOMMENDATION 1.8
Security of Controller’s Office Files – The City Controller should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order adequately protect personal and medical information of City employees.

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<td>Bonnie Johnson 720-913-5205</td>
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Narrative for Recommendation 1.8
We agree with the recommendation. As the audit stated, the Controller’s Office is in the process of cleaning up our Shared Drive and implementing SharePoint; this included creating new folders and renaming files. Unfortunately, when the new folders were created, we did not realize that the link to the secured profile would be broken. When the Auditor’s Office informed us of the breakdown in the security, we immediately contacted Technology Services to establish that secured profile again. Directors in the Controller’s Office have been informed of how the links can be broken and so has the SharePoint project manager. We will review these profiles regularly to ensure they remain secure.
**RECOMMENDATION 1.9**

**Risk Assessment for File Security** – The City Controller should ensure that a risk assessment is performed to confirm that appropriate security measures are in place and that access will continue to be monitored on a regular basis once all files are moved to SharePoint.

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<td>Agree</td>
<td>September 30, 2015</td>
<td>Beth Machann 720-913-5515</td>
</tr>
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</table>

**Narrative for Recommendation 1.9**

We agree with the Recommendation. All Directors and the SharePoint Project Manager have been informed of the issue. The project plan and on-going procedures for managing SharePoint will include monitoring and protocols to ensure files are secure. In addition, Payroll will do periodic monitoring to ensure that their files are secure.

Please contact Beth Machann at 720-913-5515 with any questions.

Sincerely,

Beth Machann, CGFM
City Controller

cc: Cary Kennedy, Deputy Mayor and Chief Financial Officer
Bonnie Johnson, Director of Payroll
Kelli Bennett, Director of Accounting and Financial Reporting
Bill Riedell, Director of Financial Services
Karen Niparko, Executive Director, Office of Human Resources