

FAMILY AND MEDICAL LEAVE PROCEDURES

Reasons for Leave

In compliance with the Family and Medical Leave Act of 1993 and under procedures developed by the Superintendent, leave shall be granted to eligible employees for the following reasons:

1. For the birth and care of an employee's newborn child or for placement of a child with an employee for adoption or foster care;
2. To care for the employee's spouse, child or parent who has a serious health condition; or
3. For an employee's own serious health condition that makes the employee unable to perform the functions of the employee's job;
4. To address a qualifying exigency (need) defined by federal regulation arising out of the active duty or call to active duty of a covered family member (spouse, son, daughter, parent or next of kin) who serves in a reserve component or as a retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered family member (spouse, son, daughter, parent or next of kin) who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces that may render the family member medically unfit to perform duties of his/her office, grade, rank or rating.

As used above, a **serious health condition** is an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- A period of incapacity requiring absence of **more than three calendar days** from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- Any period of incapacity due to pregnancy, or for prenatal care; or
- Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
- Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

Eligibility

Employees are eligible for up to twelve (12) workweeks of family and medical leave within a 12-month period, if the employee has been employed by the District for 12 months, has worked at least 1,250 hours during the 12-months preceding the start date of leave; and otherwise qualifies for family and medical leave.

When family and medical leave is taken to care for a service member's recovery from a serious illness or injury sustained in the line of duty, an eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve (12) month period.

Full-time teachers are presumed to have worked at least 1,250 hours during a school year.

In determining whether returning veterans meet the minimum 1,250 hour standard, hours actually worked for the District during the twelve-month period are to be combined with hours they would have worked for the District had they not been called for military service.

In situations involving both the Americans with Disabilities Act (ADA) and FMLA, the District shall apply the law affording the employee the greater benefit.

Identifying the 12-Month Period

The District will use the 12-month period measured forward from the first date an employee takes leave to establish the 12-month period. The next 12-month period would begin the first time FMLA leave is taken after completion of the prior 12-month period.

Paid/Unpaid Leave

FMLA leave may be either paid, unpaid, or a combination of paid and unpaid leave. Whenever an employee requests leave for an FMLA covered event, the employee will be required to exhaust all accrued and applicable paid leave before using unpaid leave. Whether the leave is paid or unpaid, it will be counted toward the employee's 12-week entitlement in any given year.

Length of Leave

An employee has a total of 12 unpaid weeks for all FMLA leaves in a 12-month period; however, an employee may have a total of 26 unpaid weeks in a single 12-month period if the FMLA leave is to act as a caregiver for a military family member.

If both husband and wife are employed by the employer, FMLA leave is limited to a combined total of 12 weeks in a 12-month period when leave is taken for the following reasons:

- The birth, adoption or foster care placement of a child.
- To care for the employee's parent with a serious health condition.

If leave is taken for other reasons, such as the employee's own serious health condition or to care for a child with a serious health condition, the husband and wife can each use up to 12 weeks of leave individually. When the husband and wife both use a portion of the total 12-week FMLA leave entitlement for the birth of a child, placement for adoption or foster care, or to care for a parent, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks of FMLA leave for other purposes. For example, if each spouse took six weeks of leave to care for a parent, each could use an additional six weeks due to his or her own serious health condition or to care for a child with a serious health condition.

Intermittent or Reduced Schedule for FMLA Leave

An employee does not need to use his or her leave entitlement in one block. When medically necessary, leave may be taken intermittently (in small blocks of time) or on a reduced leave

schedule (reducing the employee's usual weekly or daily schedule). Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Military Family leave due to qualifying exigencies may also be taken on an intermittent basis.

Leave to care for or bond with a newborn child or a newly placed adopted or foster child may only be taken intermittently with the employer's approval and must conclude within 12 months after the birth or placement.

Benefits

While on FMLA leave, the employee is entitled to all employment benefits accrued prior to the date on which the leave commenced. Employees will not accrue additional leave or seniority while on unpaid FMLA leave. The District will maintain group health insurance coverage, including family coverage, for an employee on FMLA leave on the same terms as if the employee continued to work. Arrangements will be made for employees taking unpaid FMLA leave to pay their share of health insurance premiums.

An employer's obligation to maintain health benefits under FMLA stops if and when an employee informs the employer of an intent not to return to work at the end of the leave period, or if the employee fails to return to work when the FMLA leave entitlement is exhausted. The employer's obligation also stops if the employee's premium payment is more than 30 days late and the employer has given the employee written notice at least 15 days in advance advising that coverage will cease if payment is not received.

In some circumstances, the employer may recover premiums it paid to maintain health insurance coverage for an employee who fails to return to work from FMLA leave.

Job Restoration

Upon return to work, the employee will be entitled to his or her same position or an equivalent position with equivalent pay.

Failure to Return to Work

Any employee who fails to return to work as scheduled after FMLA leave or exceeds the 12-week FMLA entitlement (or in the case of military caregiver leave, the 26-week FMLA entitlement), may be subject to termination of employment. Likewise, following the conclusion of the FMLA leave, the District is obligated to end the employee's group health plan benefits.

Employee Responsibility

When the necessity for leave is foreseeable, the employee must provide at least 30 days notice in advance of the beginning of the leave. In all other cases, an employee must give notice as soon as practicable. When planning medical treatment, the employee shall make a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the District.

When submitting a request for leave, the employee must provide sufficient information for the employer to determine if the leave might qualify as FMLA leave, and also provide information on the anticipated date when the leave would start as well as the duration of the leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was

previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibility

When an employee requests FMLA leave or the employer acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the employer must notify the employee of the employee's eligibility to take FMLA leave within five business days, absent extenuating circumstances. The eligibility notice must state whether the employee is eligible for FMLA leave, and if the employee is not eligible, must state at least one reason why the employee is not eligible.

Each time the eligibility notice is provided, the employer must also provide the employee with a written notice detailing the employee's rights and responsibilities.

Employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Medical Certification

Medical certification may be required for a request to use of FMLA leave for an employee's own serious health condition or to take care of a family member with a serious health condition. It is the employee's responsibility to provide complete medical certification within 15 calendar days of the request or to provide a reasonable explanation of the delay. Failure to provide the requested certification may result in the denial of continuation of leave.

If the employer has reason to question the medical certification, the employer, at its own expense, may elect to seek a second opinion from a health care provider of their choosing. If the second opinion conflicts with the first opinion, a third opinion may be obtained at the employer's expense from a health care provider mutually chosen by the employee and the employer. The third opinion will be controlling. The employee will be considered provisionally entitled to leave pending the second and/or third opinion.

Recertification

The employer may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the employer may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The employer may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

The superintendent or designee will work individually with an employee applying for FMLA leave. FMLA request forms are available in the business office.

Legal References: P.L. 103-3, "Family and Medical Leave Act of 1993"

Policy

Adopted: 05/09/1994

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