

Employees are entitled to family and medical leave under the federal Family and Medical Leave Act of 1993 (“FMLA”) law when they have worked for a covered employer for at least 12 months and have worked for the employer for at least 1,250 hours in the previous 12 months. This leave is available for up to 12 weeks of unpaid leave in a 12-month period. This policy sets forth several rules that must be applied uniformly to all employees who may be eligible for family and medical leave. The Superintendent and his/her designees are authorized to administer this law and any accompanying regulations consistent with this policy.

A. The Federal Employee Eligibility Periods

There are two types of eligibility periods under the federal law as described below.

1. 12-Month Period for Birth, Adoption or Foster care; Serious Health Condition Purposes; Qualifying Exigency

There is a 12-month eligibility period for FMLA leave taken for the following qualifying purposes:

- a. Birth and care of the newborn child of the employee;
- b. Placement with the employee of a son or daughter for adoption or foster care;
- c. Care for an immediate family member (spouse, child, or parent) with a serious health condition;
- d. Medical leave when the employee is unable to work because of a serious health condition; or
- e. Qualifying exigency leave for an employee whose spouse, child or parent is a regular member of the Armed Forces on covered active duty deployed to a foreign country or a reserve member of the Armed Forces (including National Guard) on covered active duty deployed to a foreign country under call or order to active duty in a contingency operation.

The 12-month period used to determine employee eligibility for FMLA for the purposes described above shall be for up to 12 weeks of unpaid leave in a 12-month period as calculated in a rolling 12-month period measured backward from the date an employee used an FMLA leave.

2. Federal 12-Month Period for Military Caregiver Leave

There is a separate 12-month period for employees eligible for military caregiver leave of up to 26 weeks. Such leave may be taken to care for a spouse, child, parent or next of kin of a covered service member or veteran with a serious injury or illness. This leave is calculated from the first day that leave is taken for this purpose and does not track the employer’s designated 12-month FMLA tracking period as described above. Any military caregiver leave that is not taken within the specific 12-month period is forfeited. This leave period may overlap with the usual 12-month leave period designated by the school unit and in certain circumstances, this may impact the employee’s eligibility to take other types of FMLA leave.

B. Notice by Employee

Employees requesting leave shall provide at least 30 days' notice to the Superintendent or his/her designee whenever the need for such leave is foreseeable. The employee shall provide appropriate medical certification (or other certification appropriate to the particular request) supporting the leave request.

When the Superintendent or his/her designee has reason to believe that an employee is or will be absent for a FMLA-qualifying purpose, the Superintendent or designee should request the appropriate information from the employee to determine the employee's eligibility for family and medical leave.

C. Coordination with Other Leave

When leave is taken that qualifies both as FMLA and as permitted leave under any employment contract, collective bargaining agreement or policy, the employee shall use FMLA and the other type of leave concurrently, provided that the employee meets all of the eligibility requirements for each type of leave. Types of leave that shall run concurrently with FMLA include, but are not necessarily limited to: personal and/or family sick leave, unpaid leave, disability leave, absence for work-related injuries, and any other applicable types of leave.

Example: An employee with a chronic illness qualifies for both sick leave and family medical leave. The employee has 30 days (six weeks) of accumulated paid sick leave. For the first six weeks, the employee is on paid sick leave and family and medical leave; the two types of leave run concurrently. Once the sick leave is exhausted, the employee has six more weeks of unpaid family medical leave until her 12-week federal FMLA entitlement is used up.

D. Fitness for Duty Certificate

Before returning to work, employees taking FMLA for their own serious health condition shall submit a certificate from a health care provider indicating that they are able to return to work and perform the essential functions of the position.

Legal Reference: 26USC § 2601 et seq.; 29 CFR Part 825; National Defense Authorization Act (P.L. 110-181)

Appendix Reference: FMLA Forms

Date Adopted: October 17, 2011

Last Review/Revision Date: April 3, 2017