

Regulation 0403.60-AR-09 Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible personnel to take up to 12 work weeks of unpaid, job-protected leave each year for specified family and medical reasons. Eligible personnel are defined as an individual who:

- Has been employed by the District for at least twelve (12) months; and
- Has been employed for at least one thousand two hundred fifty (1,250) hours of service during the twelve-month (12-month) period immediately preceding the commencement of the leave; and
- Is employed at a worksite where fifty (50) or more employees are employed by the District within seventy-five (75) miles of the worksite.
- A general notice regarding FMLA will be provided to all potentially eligible personnel upon hire.

For the purpose of determining eligibility for FMLA, this District will calculate the “twelve-month (12-month) period immediately preceding the commencement of the leave” as a rolling 12-month period measured backward from the date personnel uses any FMLA leave. FMLA runs concurrently with sick leave, personal leave, vacation and/or short-term disability.

FMLA leave may be taken by personnel for any of the following qualifying reasons:

- The birth of a child of the employee and in order to care for such child;
- The placement of a child with the employee for adoption or foster care of the child by the employee and in order to care for that child;
- To provide care for the employee's spouse, child, or parent, who has with a serious health condition; or
- The employee's own serious health condition.

Personnel must provide the Human Resources Department with at least 30 days' advance notice before the date the leave is to begin, or must provide notice as soon as is practicable, normally the same workday or the next workday if the employee is off work when the employee learns of the need for leave for more than ten (10) consecutive days. If personnel are unable to make this contact due to unforeseen circumstances, then it is the responsibility of the principal or supervisor

to make contact with Human Resources within seven (7) days of becoming aware that the personnel may need FMLA.

Within five (5) workdays of an employee's request to take FMLA leave, or within five (5) days after the Human Resources Department becomes aware that the personnel has the need for leave, the employee shall be provided with a written Eligibility Notice. In addition, intermittent leave or reduced scheduled hours leave may be requested by personnel when medically necessary due to a serious health condition.

- Medical certification must be received in Human Resources within fifteen (15) calendar days before the leave will be designated as FMLA; if the certification is not received within the fifteen (15) calendar days, the personnel may give up their right to FMLA.
- A fitness-for-duty or return to work certification must be received, upon request, in order for personnel to be restored to employment showing that they can perform all functions of the job they were hired to perform before the end of the FMLA leave.
- In general, a fitness-for-duty certification may not be required for each absence taken on an intermittent or reduced leave schedule. However, if the employer has a reasonable belief that the employee's return to work presents a significant risk of harm to the employee or to others, the employer may require a fitness-for-duty certification up to once every thirty (30) days.
- The personnel's return to work may be delayed until the return to work certification is provided. Human Resources may contact an employee's health care provider to clarify or authenticate a return to work certification but cannot delay the personnel's return to work while making that contact. Under no circumstances may the personnel's direct supervisor contact the employee's health care provider.
- A return to work with restrictions does not restore the employee's job even if they are working and doing light duty nor does light duty or work restrictions count as full employment. Light duty is an option to which both parties must agree. The District may deny light duty and or rescind light duty if there is a cause for concern. The FMLA entitlement is still in effect.

Qualifying Exigency Leave Entitlements for Military Personnel

Qualifying exigencies may arise when the personnel's spouse, son, daughter, or parent who is a member of the Armed Forces (including the National Guard and Reserves) and who is on covered active duty or has been notified of an impending call or order to covered active duty. For purposes of qualify exigency leave, an employee's son or daughter on covered active duty refers to a child of any age.

Spouses Who Work for the Same Employer

Spouses who work for the same employer share the total number of workweeks of FMLA leave available for certain reasons. Spouses who both work for the district share a total of 12 workweeks of FMLA leave per leave year for:

- The birth of a child.
- Placement of a child with the personnel for adoption or foster care.
- Care for a parent with a serious health condition.

Spouses who both work for the district may each use a total of 12 workweeks of FMLA leave in a leave year for:

- Their own serious health condition.
- To care for a spouse or child with a serious health condition.
- Due to a qualifying exigency.

Effect on Pay and Benefits:

FMLA leave is unpaid leave; however, the personnel must concurrently apply any accrued paid vacation days, personal days or sick leave to which they are entitled.

If personnel takes a leave of absence which they or the District designates as “FMLA”, their medical benefits will continue on the same terms and conditions as if they were actively at work. The District will continue to pay its share of the benefits. Personnel will continue to pay their share of either medical or voluntary benefits. The District will provide any necessary notice of termination of such insurance coverage due to the personnel’s failure to pay their portion of the premium or the employee’s request for termination of coverage. Such notice will be provided at least fifteen (15) days prior to the termination of coverage.

Definitions

- **Child (son or daughter):** includes biological, adopted, or foster child, stepchild, legal ward, or a child of a person standing in loco parentis (in place of parent). The child must be either under 18 years of age or, if over 18, incapable of self-care because of a mental or physical disability.

- **Parent:** includes a biological parent (not parent-in-law) or someone who stood in loco parentis when the personnel was a child.
- **Spouse:** means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the personnel resides, including common law marriage in States where it is recognized."
- **Serious health condition:** is an illness, injury, impairment, or physical or mental condition that involves the employee or a covered family member that makes the employee unable to work. Specifically, it involves either inpatient care or continuing treatment or supervision by a health care provider as follows:
 - "Inpatient care" means an overnight stay in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care, or any resulting period of incapacity.
 - "Continued treatment or supervision by a health care provider" means and includes any one or more of the following:

- In-person treatment two (2) or more times, within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of a health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider, with the first being within seven (7) days of the first day of incapacity
- In-person treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider, with the first visit being within seven (7) days of the first day of incapacity;
- Any period of incapacity due to pregnancy, or for prenatal care, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three (3) days

- Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three (3) days. A chronic serious health condition is one which:
 - Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider; and
 - Continues over an extended period (including recurring episodes of a single underlying condition); and

- May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc).
 - Any permanent or long-term incapacity due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g. Alzheimer's, a severe stroke, or the terminal stages of a disease).
 - Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for either:
 - Restorative surgery after an accident or other injury; or
 - A condition that would likely result in a period of incapacity of more than three (3) consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc), severe arthritis (physical therapy), or kidney disease (dialysis).
 - **Incapacity:** includes a person who is unable to work, attend school, or perform regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
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