



FMLA POLICY

Policy Owner:	<i>Human Resources, Benefits</i>	Effective Date:	<i>March 2021</i>
Contact:	<i>Benefits and Compensation Department</i>		

Objective/Purpose

The Federal Family and Medical Leave Act of 1993 (FMLA) as amended requires employers with 50 or more employees to provide eligible employees with unpaid leave for certain qualifying reasons. There are two types of leave available, including the basic 12 week leave entitlement (Basic FMLA Leave), as well as the military family leave entitlements (Military Family Leave) described in this policy.

In addition to FMLA leave, the employee may also be eligible for leave under a similar state or local law. To find out about the availability of state leave, please contact Benefits.

Eligibility

An employee is eligible for FMLA leave if they:

- Have worked for at least 12 months for the employer. The 12 months need not be consecutive. Employment prior to a break of service of 7 years or more will not be counted, unless the break in service was caused by the employee’s USERRA-covered service obligation, or there was a written agreement that the employer intended to rehire the employee after the break in service.
- Have worked at least 1,250 hours for the company during the 12 calendar months immediately preceding the commencement of the leave; and
- Is employed at a work site that has 50 or more employees within a 75-mile radius of the employee’s work site.

Employees with any questions about their eligibility for FMLA leave should contact Benefits.

Basic FMLA Leave

Employees who meet the eligibility requirements described above are eligible to take up to 12 weeks of unpaid leave during the 12-month period defined below for one of the following reasons:

- To care for the employee’s child during the first 12 months following birth
- To care for a child during the first 12 months following placement with the employee for adoption or foster care.
- To care for a spouse, son, daughter, or parent (“covered relation”) with a serious health condition.
- For incapacity due to the employee’s pregnancy, prenatal medical or childbirth
- For the employee’s own serious health condition that renders the employee unable to perform one or more of the essential functions of the employee’s job

Spouses employed by the same employer are limited to a combined total of 12 weeks for the birth and care of a healthy newborn child, placement of a child for adoption or foster care, or to care for a covered parent.

Military Family Leave

There are two types of Military Family Leave available.

1. Qualifying exigency leave. Employees meeting the eligibility requirements described above may be entitled to use up to 12 weeks of their FMLA leave entitlement to address a certain qualifying exigency while the employee's spouse, child or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

For Regular Armed Forces members, "covered active duty" or "call or order to covered active duty status" - means duty during the deployment of the member with the Armed Forces to a foreign country (outside the United States, the District of Columbia, or any territory or possession of the United States, including international waters)

For a member of the Reserve components of the Armed Forces (members of the National Guard and Reserves) "covered active duty or call or order to covered active duty status" - means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation.

Qualifying exigencies may include:

- Short notice deployment (up to 7 days of leave)
- Attending certain military events and related activities
- Childcare or school activities
- Addressing certain financial and legal arrangements
- Periods of rest and recuperation for the military member (up to 15 days of leave)
- Attending certain counseling sessions
- Attending post-deployment activities (available for up to 90 days after the termination of the covered service member's active duty status and to address issues arising from death of military member)
- Attending to parental care needs arising from covered active duty or call or order to covered active duty (arrange for alternative care for a parent of a military member, provide urgent or immediate care, admit, or transfer to a care facility, or attend non-routine caregiver meetings with care facility staff)
- Other activities arising out of the service member's active duty or call to active duty and agreed upon by the company and the employee.

2. Leave to care for a covered service member. An eligible spouse, child, parent, or "next of kin" may request up to 26 weeks of leave to care for a covered service member recovering from a serious injury or illness during a single 12-month period.

For a current member of the Armed Forces, including a member of the National Guard or Reserves, the member must be undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness.

For a covered veteran, he or she must be undergoing medical treatment, recuperation or therapy for a serious injury or illness. Covered veteran means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) and was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employees take FMLA leave to care for the covered veteran. An eligible employee must begin leave to care for a covered veteran within five years of the veteran's active duty service, but the single 12-month period may extend beyond the five-year period.

When both husband and wife work for the same employer, the aggregate amount of leave that can be taken by the husband and wife to care for a covered service member is 26 weeks in a single 12-month period.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the covered relation from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two visits to a health care provider

or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

The leave may be taken in one block of up to 12 weeks, or if necessary, employees may take FMLA leave on an intermittent or reduced leave schedule when medically necessary to care for a seriously ill covered relation or covered service member, because of the employee's own serious health condition, or due to a qualifying exigency. Employees needing intermittent leave for planned medical treatment must make reasonable efforts to schedule the leave so as to not unduly disrupt the Company's operations.

Leave may not be taken on an intermittent basis when used to care for the employee's own healthy child during the first year following birth, or to care for a child placed with the employee for foster care or adoption, unless both the employer and employee agree to such intermittent leave.

For purposes of FMLA leave described in this policy, a 12-month period is measured forward from the first day an employee starts leave; for example, if leave begins June 1 of one year, next eligibility for leave would be June 1 of the following year.

FMLA leave is an unpaid leave unless the employee elects to use available PTO or paid leave is available under applicable state or local law. PTO runs concurrently with an employee's FMLA entitlement.

For a serious health condition of the employee, Short Term Disability benefits may apply and run concurrently with FMLA.

Where applicable and permissible, FMLA leave will also run concurrently with parental leave and other types of paid or unpaid leave (e.g., workers' compensation leave, disability leave) that are required by state and other law.

The concurrent use of paid leave, either through PTO, Short-Term Disability benefits or otherwise, will not increase the amount of FMLA leave available.

Some states and localities have laws governing sick, disability and family leave duration and benefits. State and local regulations that are more generous take precedence over FMLA and may run concurrently with FMLA.

Medical and other benefits

During an approved FMLA leave the Company will maintain the employee's health benefits as if the employee continued to be actively employed. If STD qualifying leave, or PTO is used to substitute unpaid time, the company will deduct the employee's portion of the health premium as a regular payroll deduction. If the leave is unpaid or paid through an applicable state or local law, arrangements will be made for remittance of premiums due.

Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave. PTO does not accrue during any unpaid leave period or during any leave period paid through an applicable state or local law.

Employee Responsibilities When Requesting FMLA Leave

If the need for FMLA leave is foreseeable, the employee must give the company at least 30 days prior notice of the need to take leave. When 30 days notice is not possible, the employee must give notice as soon as practicable (within 1 or 2 business days of learning of the need for leave except in extraordinary circumstances).

Employees must provide sufficient information for the Company to determine if the leave may qualify for FMLA protection and to determine the anticipated timing and duration of the FMLA leave. Sufficient information may include that the employee is unable to perform job functions, the covered relation is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform Human Resources if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Where FMLA leave is taken because of an employee's own serious health condition or the serious health condition of a covered relation and the Company has reason to doubt the validity of a certification, then the Company may require a second and, in some cases, a third opinion, as allowed under the FMLA. The Company may also require that the employee, at the employee's expense, obtain recertification by the applicable health care provider as allowed under the FMLA.

If an employee fails to comply with the responsibilities described above, then FMLA leave may be denied or delayed.

Employer Responsibilities

When employee requests leave the company will inform the employee whether he or she is eligible under the FMLA. If the employee is eligible, the employee will be given a written notice that includes details on any additional information he or she will be required to provide. If the employee is not eligible under the FMLA, the company will provide the employee with a written notice indicating the reason for ineligibility.

Returning to Work

Upon returning from FMLA leave, most employees will be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms.

An employee returning from leave for their own serious health condition is required to provide medical certification (sometimes referred to as a fitness for duty certification) confirming they are able to return to work performing the essential functions of their job, with or without a reasonable accommodation. The Company may delay and/or deny job restoration until the employee provides the necessary return to work/fitness for duty certification.

Complaint Procedure

The Company encourages any employee who believes that the FMLA leave law has been violated to promptly report the problem to Human Resources. All complaints will be promptly investigated.
Prohibited Acts and Enforcement

The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA; and
- Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.