

Procedures for Implementation of the Family and Medical Leave Act – F.M.L.A

In order to properly comply with the Family and Medical Leave Act of 1993 as revised in January, 2009, and to ensure uniform and consistent application of its provisions, the Dearborn Public Schools has established the following administrative procedures:

1. Under the law, an employee is entitled to up to twelve (12) weeks of unpaid, job-protected leave per year (twelve-month period) for specific purposes which are outlined in the Act and detailed in **WHD publication #1420 Revised February, 2013**. They include:

*For incapacity due to pregnancy, prenatal medical care or child birth;
To care for the employee's child after birth, or placement for adoption or for foster care;
To care for the employee's spouse, son or daughter, or parent, who has a serious health condition;
For a serious health condition that makes the employee unable to perform the the employee's job; or
Because of a qualifying exigency arising out of an employee's spouse, son, daughter, or parent being on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.*

For these specific purposes, the employer has determined ***that twelve-month periods will be based on a fiscal year beginning July 1 and ending June 30***. An employee's entitlement to leave under the Act for birth, placement of a child for adoption or for foster care expires one year after the birth, placement of the child for adoption or foster care occurs.

Also under the law, F.M.L.A. also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single 12-month period. The 12-month period for this purpose begins on the first day that an individual takes the F.M.L.A. leave regardless of how the employer calculates the 12-month period for other forms of the F.M.L.A. leave.

NOTE: Employees are eligible for F.M.L.A. if they have worked for at least one year **and** have worked for 1,250 hours over the previous 12 months.

2. The employer will require that an employee substitute paid leave time, (sick leave, personal business, vacation time, etc.) if available, for instances which would be

covered by the Act and that this paid time would count toward satisfying the maximum twelve-week leave entitlement under the Act.

3. The employer will reserve the right to require a minimum of thirty days advance notice from an employee regarding the need to take unpaid leave in foreseeable circumstances. However, an employee becoming aware of foreseeable F.M.L.A. leave in less than 30 days in advance is required to give the employer notice of such need either the day it becomes known or the next business day. **Notification must be in writing.**

4. Within five (5) business days of receiving an employee's request for leave under F.M.L.A. (**Family Leave Request Form #3430.01 F1—revised 2009**), the employer will provide to the employee a **“Notice of Eligibility and Rights & Responsibilities” (Form WH-381, Revised February, 2013)** which states an employee's eligibility for F.M.L.A. in addition to a **“Designation Notice” (Form WH-382, January 2009)** which provides an employee with notification that his/her leave will be designated as F.M.L.A. leave.

5. The employer will require certification of a “qualified exigency” under F.M.L.A. when the employee first requests this type of leave. Employees seeking “qualified exigency” must fill out and complete a **“Certification of Qualifying Exigency for Military Family Leave” (Form WH-384, January 2009)**. Qualified exigency leave **IS NOT** available to members of the regular armed forces who are called to active duty.

6. The employer will require **“Certification (of) Serious Injury or Illness of Covered Service member – for Military Family Leave” (Form WH-385, February, 2013)** for employees requesting F.M.L.A. for this type of leave.

7. The employer will require medical certification from a defined health care provider within fifteen (15) calendar days of the request for leave under the Act when leave is requested to care for an employee's seriously ill family member or leave for a serious health condition that makes the employee unable to perform the essential functions of the job. The employee will provide the required medical information using either the **“Certification of Health Care Provider for Employee's Serious Health Condition” (Form WH-380-E, Revised January 2009)** or **“Certification of Health Care Provider for Family Member's Serious Health Condition” (Form WH-380-F, Revised January 2009)** unless it is not practicable under the circumstances in which case the employee must notify the employer as to the reason for the delay. If an employee does not meet this requirement, the employer may deny the F.M.L.A. leave until a sufficient certification is submitted by the employee. The employer must notify employees in writing of deficiencies in the medical certification and allow employees time to remedy the deficiency before denying the F.M.L.A. leave.

NOTE: The employer may contact the healthcare provider under the Act directly for the purpose of authenticating or clarifying a certification and may do so without the permission of the employee. However, the contact cannot be made by the employee's

direct supervisor.

8. Ordinary illnesses do not qualify for F.M.L.A., such as the common cold, flu, earaches, upset stomach, headaches, and routine dental care. To be eligible for F.M.L.A. an employee must have a condition that makes him or her unable to perform their essential job function. A “serious health condition” mentioned in item #6 is defined as:

“An illness, injury, impairment, or physical or mental condition that involves (A) inpatient care in a hospital, hospice, or residential medical care facility; or (B) continuing treatment by a health care provider.”

Continuing treatment by a health care provider is defined as:

“Continuing treatment by a health care provider” must include either (1) a period of incapacity lasting more than three consecutive calendar days and treatment two or more times by a health care provider, or (2) treatment by a health care provider on one occasion resulting in a regimen of continuing treatment under the provider’s supervision.”

9. If leave is to be taken on an intermittent basis, certification must specifically state when and how frequently this periodic treatment is needed by the employee. Employee requests for intermittent or reduced schedule leaves for planned medical treatment must attempt to schedule their leave so as not to disrupt the employer’s operations. The employer will reserve the right to require recertification at least once every thirty days at the employee expense during the term of the leave. Certification will be required that the employee is able to resume the essential duties of the job prior to returning to work. The employer will reserve the right to require a second opinion.

10. Please be advised that all absences of four or more days in length will be assessed toward the total allotment of twelve weeks of FMLA leave time. In addition, recurring absences of an intermittent nature for the same continuing medical reason will also be assessed toward this twelve week allotment. Administration, working with the specific supervisor for each employee will make every attempt to contact each employee who is off for the specific reasons and time periods applicable to FMLA to document the leave appropriately at the time the leave is taken. However, if for some reason administration is not successful in making this notification in a timely manner, the time may be assessed retroactively at such time as it is recognized as time that counts toward FMLA as described above.

Should you still have questions regarding the District’s policy regarding F.M.L.A, please refer to WHD publication #1420 Revised February 2013 located in each building, the government’s web site regarding F.M.L.A, or the District’s Personnel Office.