

LEAVE FOR FAMILY AND MEDICAL REASONS

Regulation GBO-R is intended to assist in determining eligibility for Federal and State Family Medical Leave and State Family Care Leave. Federal and State FMLA leave is unpaid leave, but it may run concurrent with other leave for which the employee is entitled to pay.

Whenever a leave request is received or an employee is out of work for an extended period (more than five work days), the following criteria will be used to determine whether the absence qualifies under Federal or State Family Medical Leave or Family Care Leave:

A. First determine whether or not the employee is eligible for Federal FMLA:

- Has the employee been employed for at least 12 months?
- Has the employee worked at least 1250 hours over the previous 12 months?
- Has the employee used less than 12 weeks of FMLA in the current 12 month period?
- Does the employee satisfy one of the following qualifying conditions:
 - Birth or placement of a child for adoption or foster care.
 - Employee needed to care for spouse, child or parent with a serious health condition (medical certification may be required).
 - Employee is unable to work due to employee's own serious health condition (medical certification may be required).
 - Qualifying exigency because of military servicemember.
 - Care for servicemember injured/serious injury.

If the answer to all the above questions is YES, the employee is eligible for federal FMLA leave. If any answer is NO, the employee is not eligible for federal FMLA, but may be eligible for state FMLA.

If eligible for Federal FMLA, has the employee provided 30 days notice of foreseeable leave, or as soon as practicable thereafter if not foreseeable? If the employee fails to provide 30 days notice of foreseeable leave, leave may be delayed to start 30 days after notice is given, but only if the employee has had actual notice of FMLA notice requirement.

If eligible for Federal FMLA, give the employee notice within two days, followed by written confirmation by the next payday, that the leave is being treated as FMLA leave. Leave may be provisionally designated as FMLA leave subject to receipt of additional information.

B. Second, if the employee is not eligible for federal FMLA, proceed to determine whether he/she is eligible for state family medical leave as follows.

- Has the employee been employed for 12 consecutive months?
- Has the employee used less than ten weeks of state family medical leave in the past two years?
- Does the employee satisfy one of the qualifying conditions?
 - Birth of the employee's child or placement of a child under 17 with the employee for adoption.
 - Employee needed to care for spouse, child, parent or domestic partner recognized as a family member with a serious health condition (medical certification may be required).
 - Employee is unable to work due to employee's own serious health condition (medical certification may be required).

- If the answer to all of the above questions is YES, the employee is eligible for state family medical leave.

If the employee is eligible for state family medical leave, has the employee provided 30 days notice of the intended date upon which the leave will commence and terminate, unless prevented by medical emergency from giving that notice? If not, the leave may be postponed to start 30 days after the notice was given.

If the employee is eligible for state family medical leave, give the employee written notice of the leave and the basic terms.

Definitions and Procedures for State Family Care Leave

“Immediate family member” is an employee’s spouse, child, parent or domestic partner registered with the state.

“Paid Leave” is time away from work by an employee for which the employee receives compensation. “Paid Leave” is limited to sick time, vacation time, compensatory time, and leave that is provided as an aggregate amount for use at the discretion of the employee for any of these purposes. “Paid Leave” does not include paid short-term or long-term disability, or similar types of benefits.

Employees may take up to forty (40) hours of “paid leave,” which the employee has earned, as Family Care Leave per 12 month period, or the amount provided by an applicable collective bargaining agreement or other employment policy or compensation plan promulgated by the Board, whichever is greater. Family Care Leave must be for the purpose of caring for an immediate family member who is ill.

“Paid leave” will not be advanced for the purposes of Family Care Leave. Only “paid leave” which has been earned may be used for Family Care Leave.

The 12-month period shall be consistent with the 12-month period identified for the school unit's administration of the Family Medical Leave Act (FMLA).

Notice/verification of illness for Family Care Leave shall be the same as that required for the employee’s own illness. The employee must specify that leave is being taken pursuant to the Family Care Act.

An employee electing to take Family Care Leave must apply such leave against available paid sick leave and if sick leave is exhausted, against compensatory time until accrued compensatory time is exhausted, then against vacation until accrued vacation time is exhausted, then against any other accrued paid leave until all paid leave available has been exhausted, except as otherwise provided in applicable collective bargaining agreements or policies or employment compensation plans promulgated by the Board.

If an employee is eligible for both Family Care Leave and FMLA leave, the Family Care Leave and the FMLA leave shall run concurrently.

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