

Family Medical Leave Act (FMLA) Sample Policy

Eligibility

All full-and part-time employees who have been employed by the Company for at least twelve months, not necessarily consecutively, and have worked a minimum of 1,250 hours during the immediately preceding twelve months are eligible for a leave of absence under this policy.

Policy Statement

In accordance with the Family and Medical Leave Act of 1993 (FMLA), the Company will grant eligible employees up to twelve weeks of unpaid leave during a twelve-month period for any of the following reasons: (1) to care for the employee's child within one year of birth, adoption, or the initiation of foster care; (2) to care for a child, spouse, or parent with a serious health condition; (3) because the employee's own serious health condition makes the employee unable to perform his or her job; or (4) because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. The Company will grant up to 26 weeks of FMLA leave during a single 12-month period to an employee to care for a family member or next of kin who is a covered service member with a serious injury or illness. Upon the completion of FMLA leave, an employee generally will be reinstated to the position that the employee held when the leave commenced, or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

Scheduling of Leave

- a. Except for care of a covered service member as provided below, eligible employees may take a maximum of twelve weeks of leave during a twelve-month period. In all cases, the twelve-month period shall be measured from the date the employee's first FMLA leave begins.
- b. Family leave, i.e., leave for childbirth, adoption, or foster care must be taken and completed within one year of the birth, adoption, or the initiation of foster care. Such leave ordinarily must be taken all at once unless the employee's supervisor agrees to an alternative leave arrangement that satisfies the operational needs of the Company.
- c. Medical leave, i.e., leave for the serious health condition of an employee (including disability in connection with pregnancy or childbirth) or an employee's spouse, parent, son or daughter, may be taken whenever medically necessary. Depending on the circumstances, medical leave may be taken all at once, intermittently, or on a reduced work basis. However, if the employee's need for intermittent leave or leave on a reduced basis is foreseeable based on planned medical treatment, the employee must make a reasonable effort to schedule the treatment in a way that will minimize disruptions to the Company's operations. The Company may, with justifiable cause, ask an employee to modify his or her treatment schedule in order to better accommodate the Company's needs.
- d. Leave for covered service members. Leave to care for a covered service member who has a serious injury or illness is a one-time leave of up to 26 weeks in a single 12-month period.

Employee Notice Requirements

- a. If an employee's need for FMLA leave is foreseeable, the employee must provide his or her supervisor or the head of human resources with at least thirty days advance written notice before the leave can begin, or as much notice as is practicable under the circumstances. Such notice should include the employee's reason for requesting leave as well as its anticipated timing and duration.

b. If an employee's need for FMLA leave, or its approximate timing, is not foreseeable, the employee is expected to give his or her supervisor or the head of human resources notice as soon as possible under the circumstances. Ordinarily, such notice means complying with the Company's usual policy for calling in at or before the start of the workday or at the latest one working day after the employee learns of the need for the leave.

Employer Notice Requirements

Employees will be provided detailed notice at the time they request FMLA leave, which explains their rights to FMLA leave, their eligibility for leave, and specifies the expectations and obligations of the employee during FMLA leave and the consequences of any failure to meet these obligations.

Medical Certification Requirements

a. Any employee requesting a medical leave, either to care for a sick relative or because of the employee's own serious health condition, may be required to provide a doctor's statement supporting the employee's need for leave within fifteen days after requesting leave. Employees should contact the head of human resources as soon as their need for a medical leave is determined.

b. A doctor's statement may be required to be submitted monthly while an employee is on medical leave in order to certify the employee's continuing need for leave. A doctor's statement also may be required if an employee requests an extension of leave, or if there is a significant change in circumstances related to the employee's need for leave.

c. As a condition of returning to work, an employee who has been on medical leave is required to present a doctor's statement certifying that the employee is well enough to resume work. A medical certification also is required in any case where an employee on FMLA leave represents that he or she is unable to return to work for medical reasons.

d. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities from requesting genetic information of employees or their family members. In order to comply with this law, employees should not provide any genetic information or information about their family medical history when responding to a request for medical information to support a request for FMLA leave. "Genetic information" as defined by GINA includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Status of Compensation and Benefits while on FMLA Leave

a. Most FMLA leave will be without pay except when an eligible employee uses accrued vacation time, sick time, or qualifies for STD payments. To the extent FMLA leave also qualifies as a leave under the Company's parental leave policy (i.e., at the birth, adoption or foster placement of a child), the leave will be paid under the terms of the Company's STD policy, or the Company will provide employees with two weeks of paid parental leave.

b. The Company will maintain an employee's health insurance coverage for the duration of the employee's FMLA leave as though the employee were continuously employed. The Company will continue to pay its portion of the employee's health insurance premiums provided that the employee pays his or her contributory portion on a timely basis. Employees requesting leave should contact the head of human resources to arrange an acceptable payment schedule.

c. The Company will maintain and pay its portion of the premiums during FMLA leave for life and disability insurance.

d. Employees will not accrue vacation during any periods of FMLA leave. However, such leave periods will be treated as continued service for the purpose of calculating pension and retirement plan vesting and eligibility.

e. In the event an employee fails to return to work after an unpaid family or medical leave is exhausted or expires, the Company is entitled to recover health or other insurance premiums paid by the Company during the leave period unless the reason the employee's failure to return is because of: 1. The continuation, recurrence, or onset of a serious health condition; or 2. Other circumstances beyond the employee's control.

Return to Work

a. An employee on FMLA leave is expected to report periodically to the employee's supervisor on his/her status and intent to return to work and those on leave for a serious health condition will be required to provide medical certification of their ability to return to work.

b. The Company will make every effort to restore all employees on leave to their original or equivalent positions with equivalent pay, benefits, and other employment terms. However, it may be necessary to deny restoration to certain highly compensated "key employees" in order to avoid substantial and grievous economic injury to the Company's operations. The Director or head of human resources will notify any employee who qualifies as a "key employee" and thus might be denied restoration, as soon as possible after the employee requests leave.

Enforcement

Employees may file a claim with the Wage and Hour Division of the Department of Labor or bring a private lawsuit in court in order to enforce their rights under the FMLA. Information is available at www.wagehour.dol.gov.