



FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT
Human Resources Department

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YOUR FMLA AND AFLA RIGHTS AND RESPONSIBILITIES

The Fairbanks North Star Borough School District is committed to providing employees with family and medical leave in compliance with the Family and Medical Leave Act and the Alaska Family Leave Act, as applicable. Both laws provide employer options for implementation of leave. The District will implement leave under these laws as set forth below.

THE FAMILY AND MEDICAL LEAVE ACT (FMLA) requires the District to provide up to 12 weeks of unpaid leave in a 12 month period to eligible employees for qualifying family and medical reasons. Employees are eligible if they have worked for the District for at least one year, and for 1,250 hours over the previous 12 months. For purposes of total leave availability, the Fairbanks North Star Borough School District utilizes a “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

THE ALASKA FAMILY LEAVE ACT (AFLA) requires the District to provide up to 18 weeks of unpaid leave during a 24 month period to eligible employees because of a serious health condition of the employee or qualifying family member. AFLA provides a total of 18 weeks of unpaid leave during a 12 month period because of pregnancy, childbirth, or adoption. Employees are eligible if they have worked for the District for at least 35 hours a week in the last six consecutive months, or for at least 17.5 hours a week for the last 12 consecutive months immediately preceding the leave. In the event an employee is eligible for leave under AFLA only, and AFLA does not contain specific requirements for implementation of that leave, the District adopts and utilizes the procedures, rights, and responsibilities set forth in FMLA.

MILITARY FAMILY LEAVE (MFL) is provided by FMLA in two situations. First, an employee may take up to 12 weeks of his/her FMLA leave entitlement in a 12 month period for “any qualifying exigency” of a military member who is on covered active duty and is a qualified family member. Second, an employee may take up to 26 weeks of leave in a 12 month period to care for a covered service-member who is a qualified family member recovering from a serious illness or injury sustained in the line of duty while on active duty. More information about Military Family Leave can be obtained from the Human Resources office. The District utilizes the U.S. Department of Labor forms for Certification of Military Family Leave.

QUALIFYING REASONS FOR TAKING LEAVE

Employees who meet the eligibility requirements described above are eligible to take leave for any of the following reasons:

- To care for the employee’s infant during the first 12 months following birth;
- To care for a child during the first 12 months following the employee’s adoption of the child or foster care placement of the child with the employee;
- To care for a spouse, child, or parent with a serious health condition;
- Because of the employee’s own serious health condition; or
- For an employee whose family member is a military member who has a qualifying exigency or a serious illness or injury.

DEFINITIONS

- **“Child”** means the employee’s biological child, adopted child, stepchild, foster child, or legal ward, so long as the child is under the age of 18 or, if 18 or older, is incapable of self-care because of a mental or physical disability. Under AFLA, “child” does not include stepchild for purposes of caring for the child under adoption.
- **“Parent”** under AFLA means a biological or adoptive parent, parent-in-law, or stepparent. “Parent” under FMLA means biological, adoptive, step or foster parent, or any other individual who stood “in loco parentis” (in the role of a parent) to the employee when the employee was a child; it does not include parent-in-law.
- **“Spouse”** means a married partner as defined or recognized under the laws of the state where married or a partner through marriage entered outside the United States if the marriage is valid in the place where entered and could have been entered in at least one US state.
- **“Serious health condition”** is defined as an illness, injury, impairment, or physical or mental condition that involves:
 - any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
 - a period of incapacity requiring absence of more than **three calendar days** from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
 - any period of incapacity due to pregnancy, or for prenatal care; or
 - any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
 - a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
 - any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

FAMILY MEDICAL LEAVE COORDINATION

An employee’s FMLA and AFLA leaves run concurrently with each other, with workers’ compensation, and with other types of paid leave. The substitution of paid leave for unpaid leave does not extend the maximum FMLA/AFLA leave period.

PAY, BENEFITS, AND JOB PROTECTIONS DURING LEAVE

Pay

- FMLA/AFLA is unpaid leave. While on leave, employees may be eligible to use sick leave, annual leave, personal leave, and/or workers’ compensation benefits. Union employees should refer to their associated collective bargaining agreement for additional information about leave benefits.
- The Fairbanks North Star Borough School District requires employees to substitute accrued paid leave for unpaid FMLA and AFLA leave, unless paid leave substitution is prohibited by the applicable negotiated agreement. For pay or leave balance related questions, please contact Payroll at (907) 452-2000, x11320 or visit the website @ www.k12northstar.org.
- It is the employee’s responsibility to be aware of their accrued leave balances. Employees may access ESS (Employee Self Service) over the internet to obtain leave balances at any time.

Benefits

- For the duration of approved FMLA/AFLA leave, the District will maintain the employee’s health coverage under any group plan as if the employee continued to be actively working.
- The employee remains responsible for the employee’s share of the health plan cost share contribution. During any portion of leave where accrued paid leave is being substituted, the health cost share contribution will be deducted from pay, as usual.
- During any portion of leave which is unpaid, it is the employee’s obligation to contact the benefits office at (907) 452-2000, x11382 to make arrangements to continue to pay the employee’s share of the cost share contribution

for health insurance. For employee's on the District's medical plan, at the District's option, the District may pay your share of the cost share contribution during any unpaid portion of FMLA/AFLA leave and recover those payments from the employee upon your return to work.

- Use of FMLA/AFLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

Job Restoration

- Upon return from FMLA/AFLA leave, most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The District retains the right to make business decisions and employees on FMLA/AFLA leave have no greater rights to reinstatement or benefits than if they had been continuously employed during the leave period. For example, lay-offs, position elimination, non-retention, and reductions in hours may still occur. Subject to the requirements of the applicable negotiated agreement, the loss of the employee's position may eliminate the right to job restoration, and to continued FMLA leave or benefits, upon the date such employment action is effective.
- The right to job restoration will be lost in the event that an employee fraudulently obtains FMLA/AFLA leave.

INSTRUCTIONAL EMPLOYEES

FMLA provides special rules for instructional employees, as set forth below. In cases where the special rules apply, the District may apply those special rules or the general FMLA rules as best serves the interests of the District.

- **"Instructional employees"** are teachers or other employees whose principal function is to teach and instruct students in a class, small group, or individual setting. The term does not include administrators, teacher assistants or aides, or positions such as psychologists or curriculum specialists. It also does not include employees such as cafeteria workers, maintenance workers, or bus drivers.

Medical treatment impacting on instructional time

If an instructional employee wants to take foreseeable intermittent leave or reduced-schedule leave because of planned medical treatment, and the leave is more than twenty (20) percent of the total number of working days in the period over which the leave would extend, the District may require the employee to take the entire period of leave in a block, or may transfer the employee to an alternative placement for the period of planned leave. This decision is at the discretion of the District.

Leave towards the end of the school term

The following options are available to the District in cases where instructional employees are on FMLA leave towards the end of the school term but are available to return to work before the term has ended. "Term" means the fall or spring semester.

- If an instructional employee begins FMLA leave more than five (5) weeks before the end of the term, the leave lasts at least three (3) weeks, and the employee would return during the three (3) week period before the end of the term, the District may require the employee to remain on leave for the remainder of the school term.
- If an instructional employee begins FMLA leave five (5) weeks or less before the end of the term, the leave is for a qualifying reason other than the employee's own serious health condition, and the leave will last more than two (2) weeks, the District may require the employee to remain on leave for the remainder of the school term.
- If an instructional employee begins FMLA leave with three (3) weeks or less before the end of the term, the leave is for qualifying reason other than the employee's own serious health condition, and the leave will last more than five (5) working days, the District may require the employee to remain on leave for the remainder of the school term.

In the cases above where the District has exercised its right to extend the leave time, the leave is unpaid but is not charged against the employee's annual FMLA/AFLA entitlement. In addition, when the District exercises its rights listed above and the result is the employee being in a leave without pay status on the last day of the school year the benefit provisions will be extended to maintain employee health insurance coverage through the summer according to the guidelines of the health plan document.

KEY EMPLOYEE RULE

Key employees are salaried employees in the highest paid 10% of the workforce working within 75 miles of the employer. While key employees have the leave rights permitted under FMLA, the School District has the right to deny restoration to that employee's regular position if the reinstatement would cause substantial and grievous economic injury to the District. If the District intends to exercise its rights to not reinstate a key employee after FMLA leave is completed, the District will provide that key employee proper notice of the intent prior to the start of the employee's family medical leave.

BOTH SPOUSES EMPLOYED BY FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

Special rules apply to spouses who are employed by the District: Under FMLA, two spouses together may take a *combined* total of 12 weeks of leave during any 12-month period for birth of their child; to care for the child after birth, adoption, or foster care placement; or to care for the employee's parent with a serious health condition. Under AFLA, the District is not required to grant simultaneous leave to both spouses to care for a parent or child with a serious health condition.

EMPLOYEE RESPONSIBILITIES

Notice and Scheduling of Leave:

- If the need for leave is foreseeable, you must provide the Fairbanks North Star Borough School District at least 30 days advance notice before the leave is to begin. If you fail to provide the District proper notification as described above, the start of leave may be delayed.
- When 30 days' notice is not possible, the employee must provide notice as soon as reasonably possible. **This means within 1 or 2 business days of learning of the need for leave, except in extraordinary circumstances.**
- Employees may be asked why providing 30 days' notice was not possible and employees must cooperate with such an inquiry.
- If the leave is foreseeable based on planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the District's operations, subject to the approval of the health care provider of the employee or the employee's child, spouse, or parent. Employees should attempt to schedule medical treatment around work so as to permit employees to work as much of their workday as possible.
- If an employee believes planned medical treatment should occur during the work year, they need to provide acceptable justification from the Health Care Provider.
- If intermittent leave is requested, the leave schedule must be provided to the supervisor when foreseeable and able to be scheduled in advance. When intermittent leave is not able to be scheduled in advance, the employee must provide notice as soon as possible to their supervisor that family medical leave is needed.
- The employee must provide leave notification to the supervisor and "FMLA" must be noted on the request.
- The employee must follow the District's leave notification requirements including established call-in procedures.
- All leave designated as FMLA/AFLA will be counted against the employee's FMLA/AFLA entitlements.

Application & Doctor's Certification:

- The employee must complete and submit a Request for Family Medical Leave.
- When submitting a request for leave, the employee must provide sufficient information for the District to determine if the leave might qualify as FMLA/AFLA leave. The employee must also provide information on the anticipated date when the leave will start as well as the duration of the leave.
- The employee must provide a Health Care Provider Certification when the leave is requested for the employee's own serious health condition or that of a qualifying family member. This is at the employee's expense.
- Employees requesting an intermittent leave schedule must have proper supporting documentation from their health care provider that demonstrates the need for intermittent leave.
- The District may request regular updates and re-certification of the medical condition from the employee's health care provider.

- The employee must submit the Health Care Provider Certification form to Human Resources within 15 days of receiving notice from the District that the medical certification or re-certification is required. If the certification is not received, the employee may be denied coverage under the family leave acts.

Status Reporting While on Leave

If an employee takes leave because of the employee's own serious health condition or to care for a covered family member, it is the employee's responsibility to keep the District informed regarding the status of the leave and intent to return to work. In addition, the employee must give notice as soon as practicable (within 2 business days, if feasible) if the dates of the leave change, are extended, or were unknown initially.

RETURNING TO WORK

- Employees must return to work as specified in the Health Care Provider Certification or provide an updated certification.
- Before resuming work activities following leave for the employee's own serious health condition, the employee is required to provide the appropriate medical documentation (fitness for duty report or work release) to the Human Resources AND to their supervisor before returning to work.
- Once released to work, the Principal/Supervisor will review the employee's limitations/restrictions, if any, and determine if the stated restrictions can be reasonably accommodated in the employee's regular duty position.
- An employee who fails to return to work will be required to reimburse the Fairbanks North Star Borough School District's portion of the health insurance premiums for the period of time the employee was on family leave, unless the employee does not return due to: circumstances beyond the employee's control; or, the continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member that would otherwise entitle the employee to FMLA/AFLA leave.

LIMITATIONS ON EMPLOYEE ACTIONS WHILE ON LEAVE

Leave abuse is not tolerated by the District and subjects an employee to disciplinary action, including termination. The limitations set forth below apply to employees on the following kinds of leave:

- Sick
 - Unauthorized Leave without Pay (LWOP) relating to a medical condition
 - FMLA, AFLA, MFL
- A. It is expected that employees on leave due to their own sickness, injury or a serious health condition will remain at their homes during work hours unless securing treatment (including necessary travel to the treatment location) or attending to ordinary and necessary personal or family needs.
- B. Employees who take a vacation while on leave due to sickness, injury or a serious health condition of the employee or family member, or who travel outside of the District during work periods for any purpose other than for medically prescribed reasons (including medical care for self or family members outside the District) and are documented by a health care provider in advance of the travel (other than emergency medical situations), are subject to termination. Exceptions may be granted for those employees on an approved intermittent FMLA/AFLA leave schedule or for other reasons at the discretion of the Executive Director of Human Resources upon written request of the employee.
- C. The need for travel outside of Alaska for treatment must be verified by the treating physician while covered by FMLA or AFLA.
- D. The District prohibits employees who are on approved leave from engaging in other employment during the dates the employee is on leave from the District. Exceptions may be granted for those on an approved FMLA/AFLA intermittent leave schedule or for other reasons at the discretion of the Executive Director of Human Resources upon written request of the employee. The written request must explain why the employee seeks to engage in work for another employer or entity and why such work is feasible when the employee is unable to work for the District.

- E. Employees who are on leave may participate in any District related work activities including but not limited to SAS contracts and extended contracts at the discretion of the Executive Director of Human Resources upon written request of the employee. The written request must explain why the employee seeks to engage in the additional work duties and why such work is feasible when the employee is unable to work in their regular duty position for the District. This includes but is not limited to trainings, coaching, staff meetings, parent conferences/meeting, working in classrooms, attending or participating in assemblies and other special school activities.

SICK LEAVE GRANT

If you are a member of a Sick Leave Bank, please contact the NEA Office at 456-4435 to inquire about your eligibility to receive a grant of sick leave hours. Sick Leave Bank applications and decisions regarding leave bank grants are made by the employee's associated Union.

UNLAWFUL ACTS BY EMPLOYERS

The Family Leave Acts make it unlawful for the District to:

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