

FAMILY AND MEDICAL LEAVE

The Alexandria City School Board (Board) recognizes its obligation to provide its eligible employees with unpaid leave pursuant to the Family and Medical Leave Act, 29 U.S.C. § 2601, et seq. This policy describes the benefits available to eligible employees under the Act.

Definitions

Covered active duty: The term covered “active duty” means

- in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
- in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).

Covered service member: The term “covered service member” means

- a member of the Armed Forces, including a member of the National Guard or Reserves, who is 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; or
- a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy

Eligible employee: To be eligible for leave under this policy the employee must have at least twelve (12) months of service with the Alexandria City Public Schools (ACPS) school division and have worked at least 1250 hours according to the Fair Labor Standards Act, 29 U.S.C § 201 et seq., in the twelve (12) months preceding the commencement of leave. Full-time teachers are deemed to meet the 1250 hour test.

Instructional employee: Employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting such as teachers, athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. This term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, or auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

Next of kin: The term “next of kin” used with respect to an individual, means the nearest blood relative of that individual other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted

48 legal custody of the covered service member by court decree or statutory provisions,
49 brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered
50 service member has specifically designated in writing another blood relative as his or her
51 nearest blood relative for purposes of military caregiver leave under the FMLA. When no
52 such designation is made, and there are multiple family members with the same level of
53 relationship to the covered service member, all such family members shall be considered
54 the covered service member's next of kin and may take FMLA leave to provide care to the
55 covered service member, either consecutively or simultaneously. When such designation
56 has been made, the designated individual shall be deemed to be the covered service
57 member's only next of kin.

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59 **Outpatient status:** The term "outpatient status," with respect to a covered service member,
60 means the status of a member of the Armed Forces assigned to

- 61 ● a military medical treatment facility as an outpatient; or
- 62 ● a unit established for the purpose of providing command and control of members
63 of the Armed Forces receiving medical care as outpatients.

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67 **Serious health condition:** A serious health condition is an illness, injury, impairment or
68 condition that involves inpatient care or continuing treatment by a health care provider.

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70 **Serious injury or illness:** The term "serious injury or illness," in the case of

- 71 ● a member of the Armed Forces, including a member of the National Guard or
72 Reserves, means an injury or illness incurred by the member in line of duty on
73 active duty in the Armed Forces (or existed before the beginning of the member's
74 active duty and was aggravated by service in line of duty on active duty in the
75 Armed Forces) and that may render the member medically unfit to perform the
76 duties of the member's office, grade, rank, or rating; and
- 77 ● a veteran who was a member of the Armed Forces, including a member of the
78 National Guard or Reserves, at any time during a period described in 29 U.S.C. §
79 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or
80 illness that was incurred by the member in line of duty on active duty in the Armed
81 Forces (or existed before the beginning of the member's active duty and was
82 aggravated by service in line of duty on active duty in the Armed Forces) and that
83 manifested itself before or after the member became a veteran.

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87 **Year:** A rolling 12-month period measured backward from the date an employee uses an
88 FMLA leave.

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90 **Notices to Employees**

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92 **Posting and General Notice**

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94 ACPS posts in conspicuous places, on the premises of the employer where notices to employees
ALEXANDRIA CITY PUBLIC SCHOOLS

95 and applicants for employment are customarily posted, a notice explaining the FMLA’s provisions
96 and providing information about the procedure for filing complaints with the Department of Labor.
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98 A copy of the notice is also given to each employee upon hiring.
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100 **Eligibility Notice**
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102 When an employee requests FMLA leave, or the Division has knowledge that an employee’s leave
103 may be for an FMLA-qualifying reason, the Division should notify the employee of the employee’s
104 eligibility to take FMLA leave within five business days. The Eligibility Notice should state
105 whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave,
106 the Notice must state at least one reason why the employee is not eligible (such as, for example,
107 the number of months the employee has worked for the Division.) This notification may be
108 accomplished by providing the employee a copy of the Notice of Eligibility and Rights &
109 Responsibilities (Family and Medical Leave Act Form WH-381)., located online at
110 <http://www.dol.gov/whd/forms/WH-381.pdf>.
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112 **Notice of Rights and Responsibilities**
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114 The Division provides written notice detailing the specific expectations and obligations of the
115 employee and explaining the consequences of the failure to meet those obligations each time the
116 employee is given an Eligibility Notice. This Notice will include, as appropriate:
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- 118 ● that the leave may be designated and counted against the employee’s annual FMLA leave
119 entitlement and the 12-month period for FMLA entitlement;
- 120 ● any requirements for the employee to furnish certification of a serious health condition,
121 serious injury or illness, or qualifying exigency arising out of active duty or call to active
122 duty status, and the consequences of failing to provide certification;
- 123 ● that the Division will substitute paid leave for unpaid leave and any conditions related to
124 the substitution and the employee’s right to take unpaid FMLA leave if the employee does
125 not meet the conditions for paid leave;
- 126 ● any requirement for the employee to make any premium payments to maintain health
127 benefits and the arrangements for making such payments, and the possible consequences
128 of failure to make such payments on a timely basis;
- 129 ● the employee’s rights to maintenance of benefits during the FMLA leave and restoration
130 to the same or an equivalent job upon return from FMLA leave; and
- 131 ● the employee’s potential liability for payment of health insurance premiums paid by the
132 employer during the employee’s unpaid FMLA leave if the employee fails to return to work
133 after FMLA leave.

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135 The Notice of Rights and Responsibilities shall be accompanied by any required certification form.
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137 The Notice of Rights and Responsibilities will also include notice that employees on FMLA leave
138 must report their status and intention regarding returning to work to the Division at least every four
139 weeks.
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141 If the information provided by the Notice of Rights and Responsibilities changes, the Division
142 will, within five business days of receipt of the employee's first notice of need for leave subsequent
143 to any change, provide written notice referencing the prior notice and setting forth any of the
144 information in the Notice of Rights and Responsibilities that has changed.

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146 **Designation Notice**

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148 When the Division has enough information to determine whether the leave is being taken for
149 FMLA-qualifying reasons, the Division should give the employee written notice whether the leave
150 will be designated and will be counted as FMLA leave within five business days. If the Division
151 determines that the leave will not be designated as FMLA-qualifying, the Division must inform
152 the employee of that determination. The Division will also notify the employee that paid leave
153 must be substituted for unpaid FMLA leave or that paid leave taken under an existing leave plan
154 be counted as FMLA leave at the time of designating the FMLA leave.

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156 If the Division will require the employee to present a fitness-for-duty certification to be restored
157 to employment after taking leave for a continuous period of time, the Division will provide notice
158 of the requirement with the Designation Notice. If the Division will require that the fitness-for-
159 duty certification address the employee's ability to perform the essential functions of the
160 employee's position, the Division must so indicate in the Designation Notice and must include a
161 list of the essential functions of the employee's position.

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163 If the Division has reasonable safety concerns regarding the ability of an employee who is
164 returning to work after intermittent or reduced leave schedule to perform his or her duties based
165 on the serious health condition for which the employee took leave, it may require the employee to
166 submit a fitness for duty certification unless one has been submitted within the past 30 days.

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168 If the leave is not designated as FMLA leave because it does not meet the requirements of the
169 FMLA, the notice to the employee that the leave is not designated as FMLA leave may be in the
170 form of a simple written statement.

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172 If the information provided by the Division to the employee in the Designation Notice changes,
173 the Division will provide, within five business days of receipt of the employee's first notice of
174 need for leave subsequent to any change, written notice of the change.

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176 The Division will notify the employee of the amount of leave counted against the employee's
177 FMLA leave entitlement. If the amount of leave needed is known at the time the employer
178 designates the leave as FMLA-qualifying, the Division must notify the employee of the number of
179 hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the
180 Designation Notice. If it is not possible to provide the hours, days, or weeks that will be counted
181 against the employee's FMLA leave entitlement, then the Division must provide notice of the
182 amount of leave counted against the employee's FMLA leave entitlement upon request by the
183 employee but no more often than once in a 30-day period and only if leave was taken in that period.

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185 The Division's decision to designate leave as FMLA-qualifying will be based only on information
186 received from the employee or the employee's spokesperson. If the Division does not have
187 sufficient information about the reason for an employee's use of leave, the Division will inquire

188 further of the employee or the spokesperson to ascertain whether leave is potentially FMLA-
189 qualifying. Once the Division has knowledge that the leave is being taken for FMLA-qualifying
190 reasons, the Division will provide the employee the notice described in this subsection.

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192 An employee giving notice of the need for FMLA leave must explain the reasons for the needed
193 leave so as to allow the Division to determine whether the leave is FMLA-qualifying. If the
194 employee fails to explain the reasons, leave may be denied.

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196 **Leave Period**

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198 Any eligible employee is entitled to leave for a combined total of twelve (12) weeks per year for
199 the following situations:

- 200 ● the birth and care of a newborn child;
- 201 ● the adoption or foster placement of a child;
- 202 ● to care for an employee's spouse, parent, or child with a serious health condition;
- 203 ● because of a serious health condition that makes the employee unable to perform the
204 essential functions of the employee's job; and
- 205 ● because of any qualifying exigency as defined in Department of Labor regulations, arising
206 out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered
207 active duty (or has been notified of an impending call or order to covered active duty) in
208 the Armed Forces.

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210 However, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered
211 servicemember is entitled to a total of 26 workweeks of leave per year to care for the
212 servicemember. Leave under this paragraph is available only during a single year. During that year
213 the employee is entitled to a combined total of 26 workweeks of leave under this policy.

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215 To the extent that an employee is entitled to compensated leave under other ACPS policies, such
216 paid leave shall be substituted for unpaid FMLA leave. Otherwise, family and medical leave is
217 unpaid. When paid leave is available, the employee must satisfy any procedural requirements of
218 ACPS's paid leave policy.

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220 Employees on FMLA leave must report their status and intention regarding returning to work to
221 the school division every four weeks.

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223 **Types of Leave**

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225 **Leave for the Birth, Adoption or Foster Placement of a Child**

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227 The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at
228 the end of the twelve month period beginning on the date of the birth, adoption or foster placement.
229 Leave taken for the birth, adoption or foster placement of a child may be taken intermittently or

235 on a reduced leave schedule if the Superintendent or designee agrees to such an arrangement.

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237 If the necessity for leave for the birth, adoption or foster placement of a child is foreseeable based
238 on an expected birth or placement, the employee shall provide the employer with not less than 30
239 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the
240 date of the birth or placement requires leave to begin in less than 30 days, the employee shall
241 provide such notice as is practicable. The employee's notice should be sufficient to make the
242 Division aware that the employee needs FMLA-qualifying leave and of the anticipated timing and
243 duration of the leave.

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245 **Leave For Serious Health Condition of Employee**

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247 Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced
248 leave schedule except as provided below.

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250 If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

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- 252 ● make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations
253 of the Division; and
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 - 255 ● provide the Division with at least 30 days' notice, before the date the leave is to begin, of
256 the employee's intention to take leave. If the date of the treatment requires leave to begin
257 in less than 30 days, the employee shall provide such notice as is practicable..
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259 The employee's notice should be sufficient to make the Division aware that the employee needs
260 FMLA-qualifying leave and of the anticipated timing and duration of the leave.

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262 The Board may require that a request for leave because of the employee's own serious health
263 condition be supported by a certification issued by a health care provider of the employee. The
264 Division should request that the employee furnish certification when the employee gives notice of
265 the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within
266 five business days after the leave begins. The Division may request certification at a later date if
267 it later has reason to question the appropriateness of the leave or its duration. The employee must
268 provide a complete and sufficient certification within 15 calendar days after the Division's request.
269 When the Division requests certification, it will advise the employee of the anticipated
270 consequences of the employee's failure to provide adequate certification.

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272 Certification will be sufficient if it states

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- 274 ● the name, address, telephone number and fax number of the health care provider and the
275 type of medical practice/specialization; the date on which the serious health condition
276 commenced;
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 - 278 ● the approximate date on which the serious health condition commenced and its probable
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- a statement or description of the appropriate medical facts regarding the employee’s health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- information sufficient to establish that the employee is unable to perform the essential functions of the employee’s position, the nature of any other work restrictions, and the likely duration of such inability.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of the employee’s serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates on which such treatment is expected to be given and the duration of such treatment and any period of recovery.

If an employee requests leave on an intermittent or reduced leave schedule because of the employee’s own serious health condition that may result in unforeseeable episodes of incapacity, the certification shall include information sufficient to establish the medical necessity for the intermittent leave or leave on a reduced leave schedule, and an estimate of the frequency and duration of the episodes of incapacity.

If the employee submits a complete and sufficient certification signed by the health care provider, the Division may not request additional information from the health care provider. However, the Division may contact the health care provider for purposes of clarification and authentication of the medical certification. To make such contact, the Division must use a health care provider, a human resources professional, a leave administrator, or a management official. The employee’s direct supervisor may not contact the employee’s health care provider.

If the school division doubts the validity of a certification, it may require, at its own expense, that the employee obtain the opinion of a second health care provider designated or approved by the school division concerning any information certified. The health care provider designated or approved by the school division may not be employed by the school division on a regular basis.

If the second opinion differs from the original certification, the school division may require, at its own expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the school division and the employee concerning the certified information. The opinion of the third health care provider will be binding on both the school division and the employee.

Leave For Serious Health Condition of a Child, Spouse or Parent of Employee

Family and medical leave is provided when the employee is needed to care for the employee’s spouse, child, or parent with a serious health condition, as defined above. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

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- make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the Division; and
- provide the Division with at least 30 days' notice before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The employee's notice should be sufficient to make the Division aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The Board may require that a request for leave to care for an employee's spouse, parent, or child with a serious health condition be supported by a certification issued by a health care provider of the family member in need of care. The Division should ask the employee to furnish certification when the employee gives notice of the need for leave or within five business days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins. The Division may request certification at some later date if it has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification within 15 calendar days after the Division's request. When the Division requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

Certification will be sufficient if it states:

- the name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
- the approximate date on which the serious health condition commenced and its probable duration;
- a statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave; and
- information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member.

If an employee requests leave on an intermittent or reduced leave schedule for planned medical treatment of a family member's serious health condition, the certification shall include information sufficient to establish the medical necessity for such intermittent or reduced leave schedule and an estimate of the dates and the duration of such treatments and any periods of recovery.

If the employee requests leave on an intermittent reduced leave schedule in order to care for a family member with a serious health condition, the certification shall include a statement that the employee's intermittent leave or leave on a reduced leave schedule is medically necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave

375 schedule.

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377 If the employee submits a complete and sufficient certification signed by the health care provider,
378 the Division may not request additional information from the health care provider. However, the
379 Division may contact the health care provider for purposes of clarification and authentication of
380 the medical certification. To make such contact, the Division must use a health care provider, a
381 human resources professional, a leave administrator, or a management official. The employee's
382 direct supervisor may not contact the health care provider.

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384 If the school division doubts the validity of a certification, it may require, at its own expense, that
385 the employee obtain the opinion of a second health care provider designated or approved by the
386 school division concerning any information certified. The health care provider designated or
387 approved by the school division may not be employed by the school division on a regular basis.

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389 If the second opinion differs from the original certification, the school division may require, at its
390 own expense, that the employee obtain the opinion of a third health care provider designated or
391 approved jointly by the school division and the employee concerning the certified information.
392 The opinion of the third health care provider will be binding on both the school division and the
393 employee.

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395 **Leave to Care for a Covered Service member**

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397 If the necessity for leave is foreseeable based on planned medical treatment for a serious injury or
398 illness of a covered service member, the employee shall

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400 ● make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations
401 of the Division; and

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403 ● provide the Division with at least 30 days' notice, before the date the leave is to begin, of
404 the employee's intention to take leave. If the date of the treatment requires leave to begin
405 in less than 30 days, the employee shall provide such notice as is practicable.

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407 The employee's notice should be sufficient to make the Division aware that the employee needs
408 FMLA-qualifying leave and the anticipated timing and duration of the leave.

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410 The Board may require that a request for leave to care for a covered servicemember with a serious
411 injury or illness be supported by a certification issued by a health care provider of the covered
412 serviceperson. The certification may be completed by any health care provider listed in 29 C.F.R.
413 825.310(a). The employee shall provide, in a timely manner, a copy of such certification to the
414 school division.

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416 Certification will be sufficient if it states

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418 ● the name, address, and appropriate contact information (telephone number, fax
419 number, and/or email address) of the health care provider, the type of medical
420 practice, the medical specialty, and whether the health care provider is one of the
421 following: a United States Department of Defense (DOD) health care provider, a

- 422 United States Department of Veterans Affairs (VA) health care provider, a DOD
423 TRICARE network authorized private health care provider, or a DOD non-network
424 TRICARE authorized health care provider or a health care provider as defined in
425 29 C.F.R. 825.125;
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 - 427 ● whether the covered servicemember’s injury or illness was incurred in the line of
428 duty on active duty;
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 - 430 ● the approximate date on which the serious health condition or serious injury or
431 illness commenced or was aggravated and its probable duration;
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 - 433 ● a statement or description of appropriate medical facts regarding the covered
434 servicemember’s health condition for which FMLA leave is requested. The medical
435 facts must be sufficient to support the need for leave; and
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 - 437 ● information sufficient to establish that the covered servicemember is in need of care
438 and whether the covered servicemember will need care for a single continuous
439 period of time, including any time for treatment and recovery, and an estimate as
440 to the beginning and ending dates for this period of time.
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442 If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned
443 medical treatment appointments for the covered servicemember, the certification must state that
444 there is a medical necessity for the covered servicemember to have such periodic care and must
445 contain an estimate of the treatment schedule of such appointments.

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447 If an employee requests FMLA leave on an intermittent or reduced schedule basis to care for a
448 covered servicemember other than for planned medical treatment, the certification must contain a
449 statement that there is a medical necessity for the covered servicemember to have such periodic
450 care, and must contain an estimate of the frequency and duration of the periodic care.

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452 In addition to the information listed above, the Division may also request that the certification set
453 forth the information on the Certification for Serious Injury or Illness of Covered Service member
454 for Military Family Leave, Form WH-385.

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456 In lieu of Form WH-385, the Division accepts invitational travel orders (ITOs) or invitational
457 travel authorizations (ITAs) issued to any family member to join an injured or ill servicemember
458 at the servicemember’s bedside. An ITO or ITA is sufficient certification for the duration of time
459 specified in the ITO or ITA. During that time period, the employee may take leave to care for the
460 covered servicemember in a continuous block of time or on an intermittent basis.

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462 The information on the certification must relate only to the serious injury or illness for which the
463 current need for leave exists. The Division may seek authentication or clarification of the
464 certification, ITO, or ITA but may not seek second or third opinions. The Division may require
465 an employee to provide confirmation of the covered family relationship to the seriously injured or
466 ill servicemember.

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468 The Division also accepts as sufficient certification of the servicemember's serious injury or illness
469 documentation indicating the servicemember's enrollment in the Department of Veterans Affairs
470 Program of Comprehensive Assistance for Family Caregivers.

471 **Leave Related to a Qualifying Exigency Arising from Covered Active Duty or a Call to**
472 **Covered Active Duty**

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474 If the necessity for leave because of a qualifying exigency arising from the fact that a family
475 member is on covered active duty or has been notified of an impending call to covered active duty
476 is foreseeable, the employee shall give such notice to the school division as is reasonable and
477 practicable. The employee's notice should be sufficient to make the Division aware that the
478 employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

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480 The first time an employee requests leave because of a qualifying exigency arising out of the
481 covered active duty or call to covered active duty status (or notification of an impending call or
482 order to covered active duty) of a military member, the Division may require the employee to
483 provide a copy of the military member's active duty orders or other documentation issued by the
484 military which indicates that the military member is on covered active duty or call to covered
485 active duty status and the dates of the military member's covered active duty service. A copy of
486 new active duty orders or other documentation issued by the military shall be provided to the
487 Division if the need for leave because of a qualifying exigency arises out of a different covered
488 active duty or call to covered active duty status (or notification of an impending call or order to
489 covered active duty) of the same or a different military member.

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491 A request for leave because of a qualifying exigency must be supported by

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- 493 ● a statement or description signed by the employee of appropriate facts regarding
494 the qualifying exigency for which FMLA leave is requested. The facts must be
495 sufficient to support the need for leave;
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 - 497 ● the approximate date on which the qualifying exigency commenced or will
498 commence;
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 - 500 ● the beginning and ending dates of absence if the employee requests leave because
501 of a qualifying exigency for a single, continuous period of time;
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 - 503 ● an estimate of the frequency and duration of the qualifying exigency if the
504 employee requests leave because of a qualifying exigency on an intermittent or
505 reduced schedule basis;
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 - 507 ● if the qualifying exigency involves meeting with a third party, appropriate contact
508 information for the individual or entity with whom the employee is meeting and a
509 brief description of the purpose of the meeting; and
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 - 511 ● if the qualifying exigency involves Rest and Recuperation leave, a copy of the
512 military member's Rest and Recuperation orders, or other documentation issued by
513 the military which indicates that the military member has been granted Rest and

514 Recuperation leave, and the dates of the military member's Rest and Recuperation
515 leave.

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517 **Rules for Intermittent and Reduced Schedule Leave**

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519 When permitted by the FMLA, intermittent and reduced schedule leave may be used until the
520 aggregate amount of such leave equals twelve weeks or twenty-six weeks if the leave is taken to
521 care for a covered servicemember in the employee's rolling year. However, when the employee
522 requests intermittent or reduced schedule leave that is foreseeable based on planned medical
523 treatment the school division may temporarily transfer the employee to an available alternative
524 position with equivalent pay and benefits that better accommodates the employee's intermittent or
525 reduced schedule leave.

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528 When an eligible employee employed principally in an instructional capacity requests leave to care
529 for a family member with a serious health condition, leave because of the employee's own serious
530 health condition, or leave to care for a covered servicemember and the leave is foreseeable based
531 on planned medical treatment and the employee would be on leave for greater than 20 percent of
532 the total number of working days in the period during which the leave would extend, the school
533 division may require the employee to elect either

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535 ● to take leave for periods of a particular duration, not to exceed the duration of the planned
536 medical treatment; or

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538 ● to transfer temporarily to an available alternative position offered by the school division
539 for which the employee is qualified and that has equivalent pay and benefits and better
540 accommodates recurring periods of leave than the employee's regular employment
541 position.

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543 The school division may require an employee to make such an election when the employee
544 has

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546 ● made a reasonable effort to schedule the treatment so as not to disrupt unduly the
547 operations of the Division, subject to approval of the health care provider; and

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549 ● has provided the Division with not less than 30 days' notice before the date the
550 leave is to begin, of the employee's intention to take leave, except that if the date
551 of the treatment requires leave to begin in less than 30 days, the employee shall
552 provide such notice as is practicable.

553

554 **Rules for Married Couples Employed by Alexandria City Public Schools**

555

556 A married couple who are both eligible for family and medical leave and are employed by ACPS
557 shall be granted family and medical leave only for a combined total of twelve weeks per year when
558 the leave is taken for the birth, foster placement, or adoption of a child or to care for the child after
559 birth, adoption or foster placement or to care for a parent, spouse, or child with a serious health
560 condition.

561
 562 A husband and wife who are both eligible for family and medical leave and are employed by ACPS
 563 shall be granted family and medical leave only for a combined total of 26 work weeks per year if
 564 the leave

- 565 ● is taken to care for a covered servicemember; or
- 566
- 567 ● is taken as a combination of leave to care for a covered servicemember and leave for the
- 568 birth, foster placement, or adoption of a child or to care for the child after birth, adoption,
- 569 or foster placement or to care for a parent with a serious health condition. However, if the
- 570 leave taken by the husband and wife includes leave for the birth, foster placement, or
- 571 adoption of a child or to care for the child after birth, adoption, or foster placement or to
- 572 care for a parent with a serious health condition, the leave for that reason shall be limited
- 573 to 12 workweeks per year.
- 574
- 575

576 **Benefits During Family and Medical Leave**

577
 578 Employees on family and medical leave receive the group health insurance plan coverage on the
 579 same conditions as coverage would have been provided if the employee had been working during
 580 the period of leave. Other benefits are provided according to the ACPS policy for paid or unpaid
 581 leave, whichever applies.

582
 583 If the employee fails to return to work when the period of leave to which he or she is entitled
 584 expires for any reason other than the continuation, recurrence, or onset of a serious health condition
 585 that entitles the employee to leave, or other circumstances beyond the employee’s control, the
 586 school division may recover the premium it paid for maintaining the employee’s coverage during
 587 the period of unpaid leave in accordance with federal law.

588
 589 **Return to Work**

590
 591 An employee on family and medical leave shall provide the Division at least two work days’ notice
 592 of the intent to return to work. The employee shall be returned to the same or equivalent position
 593 at the end of the family and medical leave unless the Division shows that the employee would not
 594 otherwise have been employed at the time reinstatement is requested.

595
 596 The following return to work provisions apply to instructional employees:

- 597
- 598 ● If an instructional employee begins family and medical leave more than five (5) weeks
- 599 before the end of an academic term, the employee may be required to continue taking leave
- 600 until the end of an academic term if the leave is at least three (3) weeks in duration and the
- 601 return to work would occur during the last three (3) weeks of the academic term.
- 602
- 603 ● If an instructional employee begins family and medical leave a) because of the birth,
- 604 adoption, or foster care placement of a son or daughter of the employee, b) to care for a
- 605 family member with a serious health condition, or c) to care for a covered servicemember
- 606 during the five (5) week period before the end of an academic term, the employee may be
- 607 required to continue taking leave until the end of the academic term if the leave is longer

608 than two (2) weeks in duration and the return to work would occur during the last two (2)
609 weeks of an academic term.

- 610
- 611 ● If an instructional employee begins family and medical leave a) because of the birth,
612 adoption, or foster care placement of a son or daughter of the employee, b) to care for a
613 family member with a serious health condition, or c) to care for a covered servicemember
614 during the three (3) week period before the end of an academic term, the employee may be
615 required to continue taking leave until the end of an academic term if the leave is longer
616 than five (5) working days in duration.

617
618 If an instructional employee is required to continue leave until the end of an academic term, only
619 the period of leave until the employee is ready and able to return to work shall be counted against
620 the twelve week family and medical leave entitlement. However, the Division must continue the
621 group health insurance coverage under the same conditions as if the employee were working.

622
623 **Outside Employment**

624
625 An employee who is on family and medical leave may not engage in employment for any other
626 employer or self-employment while on leave. Falsification of records and failure to correct records
627 known to be false are violations of this policy and will result in discipline which may include
628 termination from employment.

- 629
- 630
- 631 Adopted: January 7, 1999
- 632 Amended: April 20, 2006
- 633 Amended: May 5, 2016
- 634 Amended: June 6, 2024

635
636
637 Legal Refs.: 29 U.S.C. §§ 207, 2601, et seq., 2611, 2612, 2613, 2614, 2618, 2619

638
639 29 CFR §§ 825.110, 825.115, 825.122. 825.124, 825.125, 825.200, 825.203,
640 825.207, 825.300, 825.301, 825.302. 825.303, 825.305, 825.306, 825.307, 825.309,
641 825.310, 825.311, 825.312, 825.600, 825.602, 825.603, , 825.604 825.800.

642
643 Family & Medical Leave Act (FMLA) Forms:

644
645 Employee Rights and Responsibilities Under the Family and Medical Leave Act
646 (WHD Publication 1420) (Revised April 2016)

647
648 Certification of Health Care Provider for Employee’s Serious Health Condition
649 (Family and Medical Leave Act) (Form WH-380-E) (Revised June 2020)

650
651 Certification of Health Care Provider for Family Member’s Serious Health Condition
652 (Family and Medical Leave Act) (Form WH-380-F) (Revised June 2020)

653

654	Notice of Eligibility and Rights & Responsibilities Under the Family and Medical Leave Act (Form WH-381) (Revised June 2020)
655	
656	
657	Designation Notice Under the Family and Medical Leave Act (Form WH-382) (Revised June 2020)
658	
659	
660	Certification of Qualifying Exigency for Military Family Leave Under the Family and Medical Leave Act (Form WH-384) (Revised June 2020)
661	
662	
663	Certification for Serious Injury or Illness of Covered Service member—for Military Family Leave Under the Family and Medical Leave Act) (Form WH-385) (Revised June 2020)
664	
665	
666	
667	Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave Under the Family and Medical Leave Act) (Form WH-385-V) (Revised June 2020)
668	
669	
670	
671	Cross Refs.: GCBD Staff Leaves and Absences
672	GCBEA Leave without Pay
673	GCBEB Military Leave and Benefits
674	GCQA Nonschool Employment by Staff Members