

FAMILY AND MEDICAL LEAVE

The Alexandria City School Board provides 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.

I. Definitions

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 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.

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

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

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

45 Reserves, at any time during the period of 5 years preceding the date on which the
46 veteran undergoes that medical treatment, recuperation, or therapy
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48 **Next of kin:** The term “next of kin” used with respect to an individual, means the nearest blood
49 relative of that individual other than the covered service member’s spouse, parent, son, or
50 daughter, in the following order of priority: blood relatives who have been granted legal custody
51 of the covered service member by court decree or statutory provisions, brothers and sisters,
52 grandparents, aunts and uncles, and first cousins, unless the covered service member has
53 specifically designated in writing another blood relative as his or her nearest blood relative for
54 purposes of military caregiver leave under the FMLA. When no such designation is made, and
55 there are multiple family members with the same level of relationship to the covered service
56 member, all such family members shall be considered the covered service member’s next of kin
57 and may take FMLA leave to provide care to the covered service member, either consecutively
58 or simultaneously. When such designation has been made, the designated individual shall be
59 deemed to be the covered service member’s only next of kin.

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

62 A. a military medical treatment facility as an outpatient; or

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64 B. a unit established for the purpose of providing command and control of members
65 of the Armed Forces receiving medical care as outpatients.
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67 **Serious injury or illness:** The term “serious injury or illness,” in the case of

68 • a member of the Armed Forces, including a member of the National Guard or
69 Reserves, means an injury or illness incurred by the member in line of duty on
70 active duty in the Armed Forces (or existed before the beginning of the member’s
71 active duty and was aggravated by service in line of duty on active duty in the
72 Armed Forces) and that may render the member medically unfit to perform the
73 duties of the member’s office, grade, rank, or rating; and

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75 • a veteran who was a member of the Armed Forces, including a member of the
76 National Guard or Reserves, at any time during a period described in 29 U.S.C. §
77 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or
78 illness that was incurred by the member in line of duty on active duty in the
79 Armed Forces (or existed before the beginning of the member’s active duty and
80 was aggravated by service in line of duty on active duty in the Armed Forces) and
81 that manifested itself before or after the member became a veteran.
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83 **II. Posting and General Notice**

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85 The Alexandria City school division shall post in conspicuous places, on the premises of the
86 employer where notices to employees and applicants for employment are customarily posted, a
87 notice explaining the FMLA’s provisions and providing information about the procedure for

88 filing complaints with the Department of Labor.

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90 A copy of the notice shall be given to each employee upon hiring.

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93 **III. Leave Period**

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

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98 1. The birth and care of a newborn child;

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100 2. The adoption or foster placement of a child;

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102 3. To care for an employee's spouse, parent, or child with a serious health condition;

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104 4. Because of a serious health condition that makes the employee unable to perform
105 the essential functions of the employee's job; and

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107 5. Because of any qualifying exigency as defined in Department of Labor
108 regulations, arising out of the fact that the spouse, or a son, daughter, or parent of
109 the employee is on covered active duty (or has been notified of an impending call
110 or order to covered active duty) in the Armed Forces.

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112 However, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a
113 covered service member is entitled to a total of 26 workweeks of leave per year to care for the
114 service member. Leave under this paragraph is available only during a single year. During that
115 year the employee is entitled to a combined total of 26 workweeks of leave under this policy.

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117 To the extent that an employee is entitled to compensated leave under other Alexandria City
118 school division policies, such paid leave shall be used concurrently with the family and medical
119 leave entitlement. Otherwise, family and medical leave is unpaid. When paid leave is available,
120 the employee must satisfy any procedural requirements of the Division's paid leave policy.

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122 Employees on FMLA leave will be required to report their status and intention regarding
123 returning to work to the school division every four weeks.

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125 **IV. Types of Leave**

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127 **A. Leave for the Birth, Adoption or Foster Placement of a Child**

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129 The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at
130 the end of the twelve month period beginning on the date of the birth, adoption or foster
131 placement. Leave taken for the birth, adoption or foster placement of a child may be taken
132 intermittently or on a reduced leave schedule if the Superintendent agrees to such an
133 arrangement.

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135 If the necessity for leave for the birth, adoption or foster placement of a child is foreseeable
136 based on an expected birth or placement, the employee shall provide the employer with not less
137 than 30 days' notice, before the date the leave is to begin, of the employee's intention to take
138 leave. If the date of the birth or placement requires leave to begin in less than 30 days, the
139 employee shall provide such notice within two work days of when the need becomes known. The
140 employee's notice should be sufficient to make the Division aware that the employee needs
141 FMLA-qualifying leave and of the anticipated timing and duration of the leave.
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143 **B. Leave For Serious Health Condition of Employee**

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145 Employees are entitled, when medically necessary, to take such leave on an intermittent or
146 reduced leave schedule except as provided below.
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148 If the necessity for leave is foreseeable based on planned medical treatment, the employee shall
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150 (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly
151 the operations of the Division; and

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154 (2) provide the Division with at least 30 days' notice, before the date the leave is
155 to begin, of the employee's intention to take leave. If the date of the treatment
156 requires leave to begin in less than 30 days, the employee shall provide such
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159 notice within two work days of when the need becomes known.

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

162 The School Board may require that a request for leave because of the employee's own serious
163 health condition be supported by a certification issued by a health care provider of the employee.
164 The Division should request that the employee furnish certification when the employee gives
165 notice of the need for leave or within five business days thereafter, or, in the case of unforeseen
166 leave, within five business days after the leave begins. The Division may request certification at
167 a later date if it later has reason to question the appropriateness of the leave or its duration. The
168 employee must provide a complete and sufficient certification within 15 calendar days after the
169 Division's request. When the Division requests certification, it will advise the employee of the
170 anticipated consequences of the employee's failure to provide adequate certification.

171 Certification will be sufficient if it states

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174 (1) the date on which the serious health condition commenced;
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176 (2) the probable duration of the condition;
177 (3) the appropriate medical facts within the knowledge of the health care provider
178 regarding the condition; and
179 (4) a statement that the employee is unable to perform the function of his or her
180 position due to the employee's health condition.
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If FMLA leave is to be taken on an intermittent or reduced leave schedule for planned medical treatment, the certification shall include the dates on which such treatment is expected to be given and the duration of such treatment. If an employee takes leave on an intermittent or reduced leave schedule because of his or her own serious health condition, the certification shall include a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule.

If an employee requests leave on an intermittent or reduced leave schedule because of his or her 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 information certified. The opinion of the third health care provider will be binding on both the school division and the employee.

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

Family and medical leave shall be provided when the employee is needed to care for his/her 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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- (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the Division; and
- (2) 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 School 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 employee, or 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:

- (1) the name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
- (2) the approximate date on which the serious health condition commenced and its probable duration;
- (3) 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
- (4) 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 FMLA leave is to be taken 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 takes 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 schedule.

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

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

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

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295 **D. Leave to Care for a Covered Service member**

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

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

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

307 The School Board may require that a request for leave to care for a covered service member with
308 a serious injury or illness be supported by a certification issued by a health care provider of the
309 covered service person. The certification may be completed by any health care provider listed in
310 29 C.F.R. 825.310(a). The employee shall provide, in a timely manner, a copy of such
311 certification to the school division.

312 Certification will be sufficient if it states

- 313 (1) the name, address, and appropriate contact information (telephone number, fax
314 number, and/or email address) of the health care provider, the type of medical
315 practice, the medical specialty, and whether the health care provider is one of the

- 316 following: a (DOD) health care provider, a United States Department of Veterans
317 Affairs (VA) health care provider, a DOD TRICARE network authorized private
318 health care provider, or a DOD non-network TRICARE authorized health care
319 provider or a health care provider as defined in 29 C.F.R. 825.125;
- 320 (2) whether the covered service member's injury or illness was incurred in the line of
321 duty on active duty;
 - 322 (3) the approximate date on which the serious health condition or serious injury or
323 illness commenced or was aggravated and its probable duration;
 - 324 (4) a statement or description of appropriate medical facts regarding the covered
325 service member's health condition for which FMLA leave is requested. The
326 medical facts must be sufficient to support the need for leave; and
 - 327 (5) information sufficient to establish that the covered service member is in need of
328 care and whether the covered service member will need care for a single
329 continuous period of time, including any time for treatment and recovery, and an
330 estimate as to the beginning and ending dates for this period of time.

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332 If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned
333 medical treatment appointments for the covered service member, the certification must state that
334 there is a medical necessity for the covered service member to have such periodic care and must
335 contain an estimate of the treatment schedule of such appointments. If an employee requests
336 FMLA leave on an intermittent or reduced schedule basis to care for a covered service member
337 other than for planned medical treatment, the certification must contain a statement that there is a
338 medical necessity for the covered service member to have such periodic care, and must contain
339 an estimate of the frequency and duration of the periodic care.

340 In addition to the information listed above, the Division may also request that the certification set forth
341 the information on the Certification for Serious Injury or Illness of Covered Service member for Military
342 Family Leave, Form WH-385, located online at <http://www.dol.gov/whd/forms/WH-385.pdf>.

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344 In lieu of Form WH-385, the Division will accept invitational travel orders (ITOs) or invitational
345 travel authorizations (ITAs) issued to any family member to join an injured or ill service member
346 at his or her bedside. An ITO or ITA is sufficient certification for the duration of time specified
347 in the ITO or ITA. During that time period, the employee may take leave to care for the covered
348 service member in a continuous block of time or on an intermittent basis.

349 The information on the certification must relate only to the serious injury or illness for which the
350 current need for leave exists. The Division may seek authentication or clarification of the
351 certification, ITO, or ITA but may not seek second or third opinions. The Division may require
352 an employee to provide confirmation of covered family relationship to the seriously injured or ill
353 service member.

354 The Division will also accept as sufficient certification of the service member's serious injury or
355 illness documentation indicating the service member's enrollment in the Department of Veterans
356 Affairs Program of Comprehensive Assistance for Family Caregivers.

357 **E. Leave Related to a Qualifying Exigency Arising from Covered Active Duty or**
 358 **a Call to Covered Active Duty**

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

364 The first time an employee requests leave because of a qualifying exigency arising out of the
 365 covered active duty or call to covered active duty status (or notification of an impending call or
 366 order to covered active duty) of a military member, the Division may require the employee to
 367 provide a copy of the military member's active duty orders or other documentation issued by the
 368 military which indicates that the military member is on covered active duty or call to covered
 369 active duty status and the dates of the military member's covered active duty service. A copy of
 370 new active duty orders or other documentation issued by the military shall be provided to the
 371 Division if the need for leave because of a qualifying exigency arises out of a different covered
 372 active duty or call to covered active duty status (or notification of an impending call or order to
 373 covered active duty) of the same or a different military member.

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

- 375 (1) a statement or description signed by the employee of appropriate facts regarding
 376 the qualifying exigency for which FMLA leave is requested. The facts must be
 377 sufficient to support the need for leave;
 378 (2) the approximate date on which the qualifying exigency commenced or will
 379 commence;
 380 (3) the beginning and ending dates of absence if the employee requests leave because
 381 of a qualifying exigency for a single, continuous period of time;
 382 (4) an estimate of the frequency and duration of the qualifying exigency if the
 383 employee requests leave because of a qualifying exigency on an intermittent or
 384 reduced schedule basis;
 385 (5) if the qualifying exigency involves meeting with a third party, appropriate contact
 386 information for the individual or entity with whom the employee is meeting and a
 387 brief description of the purpose of the meeting; and
 388 (6) if the qualifying exigency involves Rest and Recuperation leave, a copy of the
 389 military member's Rest and Recuperation orders, or other documentation issued
 390 by the military which indicates that the military member has been granted Rest
 391 and Recuperation leave, and the dates of the military member's Rest and
 392 Recuperation leave.

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 394 **V. Rules for Intermittent and Reduced Schedule Leave**
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396 When permitted by the FMLA, intermittent and reduced schedule leave may be used until the
 397 aggregate amount of such leave equals twelve weeks or twenty-six weeks if the leave is taken to

398 care for a covered service member in the employee’s rolling year. However, when the employee
399 requests intermittent or reduced schedule leave that is foreseeable based on planned medical
400 treatment the school division may temporarily transfer the employee to an available alternative
401 position with equivalent pay and benefits that better accommodates the employee’s intermittent
402 or reduced schedule leave.

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404 Instructional employees who need foreseeable intermittent or reduced schedule leave based on
405 planned medical treatment for their own serious health condition or to care for a spouse, parent,
406 or child with a serious health condition and the leave would be greater than twenty percent of the
407 total number of working days over the period of leave may be required to elect either

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409 1) To take leave for periods of a particular duration, not to exceed the duration of
410 the planned medical treatment; or
411 2) To transfer temporarily to an available alternative position offered by the
412 school division for which the employee is qualified and that has equivalent
413 pay and benefits and better accommodates recurring periods of leave than the
414 employee’s regular employment position.

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416 The school division may require an employee to make such an election when the
417 employee has

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419 1) Made a reasonable effort to schedule the treatment so as not to disrupt unduly
420 the operations of the Division, subject to approval of the health care provider;
421 and
422 2) Has provided the Division with not less than 30 days’ notice before the date
423 the leave is to begin, of the employee’s intention to take leave, except that if
424 the date of the treatment requires leave to begin in less than 30 days, the
425 employee shall provide such notice as is practicable.

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427 **VI. Rules for Husband and Wife Employed by Alexandria City Public Schools**

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429 A husband and wife who are both eligible for family and medical leave and are employed by
430 Alexandria City Public Schools shall be granted family and medical leave only for a combined
431 total of twelve weeks per year when the leave is taken for the birth, foster placement, or adoption
432 of a child or to care for the child after birth, adoption or foster placement or to care for a parent,
433 spouse, or child with a serious health condition.

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435 A husband and wife who are both eligible for family and medical leave and are employed by
436 Alexandria City Public Schools shall be granted family and medical leave only for a combined
437 total of 26 workweeks per year if the leave

- 438 (1) is taken to care for a covered service member; or
439 (2) is taken as a combination of leave to care for a covered service member and leave
440 for the birth, foster placement, or adoption of a child or to care for the child after
441 birth, adoption, or foster placement or to care for a parent with a serious health

442 condition. However, if the leave taken by the husband and wife includes leave for
 443 the birth, foster placement, or adoption of a child or to care for the child after
 444 birth, adoption, or foster placement or to care for a parent with a serious health
 445 condition, the leave for that reason shall be limited to 12 workweeks per year.
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447 **VII. Notices to Employees**

448 **A. Eligibility Notice**

449 When an employee requests FMLA leave, or the Division has knowledge that an employee's
 450 leave may be for an FMLA-qualifying reason, the Division should notify the employee of the
 451 employee's eligibility to take FMLA leave within five business days. The Eligibility Notice
 452 should state whether the employee is eligible for FMLA leave. If the employee is not eligible for
 453 FMLA leave, the Notice must state at least one reason why the employee is not eligible (such as,
 454 for example, the number of months the employee has worked for the Division.) This notification
 455 may be accomplished by providing the employee a copy of the Notice of Eligibility and Rights
 456 & Responsibilities (Family and Medical Leave Act Form WH-381), located online at
 457 <http://www.dol.gov/whd/forms/WH-381.pdf>.
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459 **B. Notice of Rights and Responsibilities**

460 The Division will provide written notice detailing the specific expectations and obligations of the
 461 employee and explaining the consequences of the failure to meet those obligations each time the
 462 employee is given an Eligibility Notice. This Notice will include, as appropriate:

- 463 • that the leave may be designated and counted against the employee's annual FMLA leave
 464 entitlement and the 12-month period for FMLA entitlement;
- 465 • any requirements for the employee to furnish certification of a serious health condition,
 466 serious injury or illness, or qualifying exigency arising out of active duty or call to active
 467 duty status, and the consequences of failing to provide certification;
- 468 • that the Division will substitute paid leave for unpaid leave and any conditions related to
 469 the substitution and the employee's right to take unpaid FMLA leave if the employee
 470 does not meet the conditions for paid leave;
- 471 • any requirement for the employee to make any premium payments to maintain health
 472 benefits and the arrangements for making such payments, and the possible consequences
 473 of failure to make such payments on a timely basis;
- 474 • the employee's rights to maintenance of benefits during the FMLA leave and restoration
 475 to the same or an equivalent job upon return from FMLA leave; and
- 476 • the employee's potential liability for payment of health insurance premiums paid by the
 477 employer during the employee's unpaid FMLA leave if the employee fails to return to
 478 work after FMLA leave.

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 480 The Notice of Rights and Responsibilities should be accompanied by any required certification
 481 form.

482 The Notice of Rights and Responsibilities will also include notice that employees on FMLA
483 leave must report their status and intention regarding returning to work to the Division at least
484 every four weeks.

485 If the information provided by the Notice of Rights and Responsibilities changes, the Division
486 will, within five business days of receipt of the employee's first notice of need for leave
487 subsequent to any change, provide written notice referencing the prior notice and setting forth
488 any of the information in the Notice of Rights and Responsibilities that has changed.

489 **C. Designation Notice**

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

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

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

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

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

513 The Division will notify the employee of the amount of leave counted against the employee's
514 FMLA leave entitlement. If the amount of leave needed is known at the time the employer
515 designates the leave as FMLA-qualifying, the Division must notify the employee of the number
516 of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in
517 the Designation Notice. If it is not possible to provide the hours, days, or weeks that will be

518 counted against the employee’s FMLA leave entitlement, then the Division must provide notice
519 of the amount of leave counted against the employee’s FMLA leave entitlement upon request by
520 the employee but no more often than once in a 30-day period and only if leave was taken in that
521 period.

522 The Division’s decision to designate leave as FMLA-qualifying will be based only on
523 information received from the employee or the employee’s spokesperson. If the Division does
524 not have sufficient information about the reason for an employee’s use of leave, the Division will
525 inquire further of the employee or the spokesperson to ascertain whether leave is potentially
526 FMLA-qualifying. Once the Division has knowledge that the leave is being taken for FMLA-
527 qualifying reasons, the Division will provide the employee the notice described in this
528 subsection.

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

532 **VIII. Benefits During Family and Medical Leave**

533
534 Employees on family and medical leave shall receive the group health insurance plan coverage
535 on the same conditions as coverage would have been provided if the employee had been working
536 during the period of leave. Other benefits shall be provided according to the Alexandria City
537 Public Schools policy for paid or unpaid leave, whichever applies.

538
539 If the employee fails to return to work when the period of leave to which he or she is entitled
540 expires for any reason other than the continuation, recurrence, or onset of a serious health
541 condition that entitles the employee to leave, or other circumstances beyond the employee’s
542 control, the school division may recover the premium it paid for maintaining the employee’s
543 coverage during the period of unpaid leave in accordance with federal law.

544 **IX. Return to Work**

545
546 An employee on family and medical leave shall provide the Division at least two work days’
547 notice of the intent to return to work. The employee shall be returned to the same or equivalent
548 position at the end of the family and medical leave unless the Division shows that the employee
549 would not otherwise have been employed at the time reinstatement is requested.

550
551 The following return to work provisions apply to instructional employees:

- 552
553 1. If an instructional employee begins family and medical leave more than five (5) weeks
554 before the end of an academic term, the employee may be required to continue taking
555 leave until the end of an academic term if the leave is at least three (3) weeks in duration
556 and the return to work would occur during the last three (3) weeks of the academic term.
557
558 2. If an instructional employee begins family and medical leave for a purpose other than the

559 employee's own serious health condition during the five (5) week period before the end
560 of an academic term, the employee may be required to continue taking leave until the end
561 of the academic term if the leave is longer than two (2) weeks in duration and the return
562 to work would occur during the last two (2) weeks of an academic term.
563

564 3. If an instructional employee begins family and medical leave for a purpose other than the
565 employee's own serious health condition during the three (3) week period before the end
566 of an academic term, the employee may be required to continue taking leave until the end
567 of an academic term if the leave is longer than five (5) working days in duration.
568

569 If an instructional employee is required to continue leave until the end of an academic term, only
570 the period of leave until the employee is ready and able to return to work shall be counted against
571 the twelve week family and medical leave entitlement. However, the Division must continue the
572 group health insurance coverage under the same conditions as if the employee were working.
573

574 **X. Outside Employment**

575
576 An employee who is on family and medical leave may not engage in employment for any other
577 employer or self-employment while on leave. Falsification of records and failure to correct
578 records known to be false are violations of this policy and will result in discipline which may
579 include termination from employment.
580

581 Adopted: January 7, 1999
582 Amended: April 20, 2006
583 Amended: May 5, 2016
584

585 Legal Refs.: 10 U.S.C. § 101(a)(13)(B)
586
587 29 U.S.C. §§ 207, 2601, et seq., 2611, 2612, 2613, 2614, 2618, 2619
588
589 29 CFR §§ 825.110, 825.115, 825.124, 825.125, 825.200, 825.203, 825.207,
590 825.300, 825.301, 825.302, 825.303, 825.305, 825.306, 825.307, 825.309,
591 825.310, 825.311, 825.312, 825.600, 825.602, 825.603, 825.800.
592

593 Family & Medical Leave Act (FMLA) Forms:
594

595 Employee Rights and Responsibilities Under the Family and Medical Leave Act
596 (WHD Publication 1420)
597 <http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>
598

599 Certification of Health Care Provider for Employee's Serious Health Condition
600 (Family and Medical Leave Act) (Form WH-380-E)
601 <http://www.dol.gov/whd/forms/WH-380-E.pdf>
602

603 Certification of Health Care Provider for Family Member’s Serious Health Condition
604 (Family and Medical Leave Act) (Form WH-380-F)
605 <http://www.dol.gov/whd/forms/WH-380-F.pdf>

606
607 Notice of Eligibility and Rights & Responsibilities
608 (Family and Medical Leave Act) (Form WH-381)
609 <http://www.dol.gov/whd/forms/WH-381.pdf>

610
611 Designation Notice
612 (Family and Medical Leave Act) (Form WH-382)
613 <http://www.dol.gov/whd/forms/WH-382.pdf>

614
615 Certification of Qualifying Exigency for Military Family Leave
616 (Family and Medical Leave Act) (Form WH-384)
617 <http://www.dol.gov/whd/forms/WH-384.pdf>

618
619 Certification for Serious Injury or Illness of Covered Service member—for Military
620 Family Leave
621 (Family and Medical Leave Act) (Form WH-385)
622 <http://www.dol.gov/whd/forms/WH-385.pdf>

623
624 Certification for Serious Injury or Illness of a Veteran for Military Caregiver
625 Leave
626 (Family and Medical Leave Act) (Form WH-385-V)
627 <http://www.dol.gov/whd/forms/wh385V.pdf>

628
629

630 Cross Refs.: GCBD Staff Leaves and Absences
631 GCBEB Military Leave and Benefits

632
633