

**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

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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 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

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72 ● a member of the Armed Forces, including a member of the National Guard or  
73 Reserves, means an injury or illness incurred by the member in line of duty on  
74 active duty in the Armed Forces (or existed before the beginning of the member's  
75 active duty and was aggravated by service in line of duty on active duty in the  
76 Armed Forces) and that may render the member medically unfit to perform the  
77 duties of the member's office, grade, rank, or rating; and  
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79 ● a veteran who was a member of the Armed Forces, including a member of the  
80 National Guard or Reserves, at any time during a period described in 29 U.S.C. §  
81 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or  
82 illness that was incurred by the member in line of duty on active duty in the Armed  
83 Forces (or existed before the beginning of the member's active duty and was  
84 aggravated by service in line of duty on active duty in the Armed Forces) and that  
85 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**

### 91 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

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.  
140

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.

162

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.

167

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.

184

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.

191  
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

197 **Leave Period**

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

- 201
- 202 (1) the birth and care of a newborn child;
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  - 204 (2) the adoption or foster placement of a child;
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  - 206 (3) to care for an employee's spouse, parent, or child with a serious health condition;
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  - 208 (4) because of a serious health condition that makes the employee unable to perform the  
209 essential functions of the employee's job; and
  - 210
  - 211 (5) because of any qualifying exigency as defined in Department of Labor regulations, arising  
212 out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered  
213 active duty (or has been notified of an impending call or order to covered active duty) in  
214 the Armed Forces.

215  
216 However, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered  
217 servicemember is entitled to a total of 26 workweeks of leave per year to care for the  
218 servicemember. Leave under this paragraph is available only during a single year. During that year  
219 the employee is entitled to a combined total of 26 workweeks of leave under this policy.

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

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

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229 **Types of Leave**

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

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233 The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at  
234 the end of the twelve month period beginning on the date of the birth, adoption or foster placement.

235 Leave taken for the birth, adoption or foster placement of a child may be taken intermittently or  
236 on a reduced leave schedule if the Superintendent or designee agrees to such an arrangement.

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

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

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

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

252  
253 (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations  
254 of the Division; and

255  
256 (2) provide the Division with at least 30 days' notice, before the date the leave is to begin, of  
257 the employee's intention to take leave. If the date of the treatment requires leave to begin  
258 in less than 30 days, the employee shall provide such notice as is practicable..

259  
260 The employee's notice should be sufficient to make the Division aware that the employee needs  
261 FMLA-qualifying leave and of the anticipated timing and duration of the leave.

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

272  
273 Certification will be sufficient if it states

274  
275 (1) the name, address, telephone number and fax number of the health care provider and the  
276 type of medical practice/specialization; the date on which the serious health condition  
277 commenced;

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279 (2) the approximate date on which the serious health condition commenced and its probable  
280 duration;

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- 282  
283 (3) a statement or description of the appropriate medical facts regarding the employee's health  
284 condition for which FMLA leave is requested. The medical facts must be sufficient to  
285 support the need for leave; and  
286  
287 (4) information sufficient to establish that the employee is unable to perform the essential  
288 functions of the employee's position, the nature of any other work restrictions, and the  
289 likely duration of such inability.  
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291 If an employee requests leave on an intermittent or reduced leave schedule for planned medical  
292 treatment of the employee's serious health condition, the certification shall include information  
293 sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an  
294 estimate of the dates on which such treatment is expected to be given and the duration of such  
295 treatment and any period of recovery.  
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297 If an employee requests leave on an intermittent or reduced leave schedule because of the  
298 employee's own serious health condition that may result in unforeseeable episodes of incapacity,  
299 the certification shall include information sufficient to establish the medical necessity for the  
300 intermittent leave or leave on a reduced leave schedule, and an estimate of the frequency and  
301 duration of the episodes of incapacity.  
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303 If the employee submits a complete and sufficient certification signed by the health care provider,  
304 the Division may not request additional information from the health care provider. However, the  
305 Division may contact the health care provider for purposes of clarification and authentication of  
306 the medical certification. To make such contact, the Division must use a health care provider, a  
307 human resources professional, a leave administrator, or a management official. The employee's  
308 direct supervisor may not contact the employee's health care provider.  
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310 If the school division doubts the validity of a certification, it may require, at its own expense, that  
311 the employee obtain the opinion of a second health care provider designated or approved by the  
312 school division concerning any information certified. The health care provider designated or  
313 approved by the school division may not be employed by the school division on a regular basis.  
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315 If the second opinion differs from the original certification, the school division may require, at its  
316 own expense, that the employee obtain the opinion of a third health care provider designated or  
317 approved jointly by the school division and the employee concerning the certified information.  
318 The opinion of the third health care provider will be binding on both the school division and the  
319 employee.  
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### 321 **Leave For Serious Health Condition of a Child, Spouse or Parent of Employee**

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323 Family and medical leave is provided when the employee is needed to care for the employee's  
324 spouse, child, or parent with a serious health condition, as defined above. Employees are entitled,  
325 when medically necessary, to take such leave on an intermittent or reduced leave schedule except  
326 as provided below.  
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328 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 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:

- (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 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



376 schedule.

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

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

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

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#### 396 **Leave to Care for a Covered Service member**

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

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401 (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations  
402 of the Division; and

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

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

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

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417 Certification will be sufficient if it states

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

- 423 United States Department of Veterans Affairs (VA) health care provider, a DOD  
424 TRICARE network authorized private health care provider, or a DOD non-network  
425 TRICARE authorized health care provider or a health care provider as defined in  
426 29 C.F.R. 825.125;
- 427
- 428 (2) whether the covered servicemember's injury or illness was incurred in the line of  
429 duty on active duty;
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- 431 (3) the approximate date on which the serious health condition or serious injury or  
432 illness commenced or was aggravated and its probable duration;
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- 434 (4) a statement or description of appropriate medical facts regarding the covered  
435 servicemember's health condition for which FMLA leave is requested. The medical  
436 facts must be sufficient to support the need for leave; and
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- 438 (5) information sufficient to establish that the covered servicemember is in need of care  
439 and whether the covered servicemember will need care for a single continuous  
440 period of time, including any time for treatment and recovery, and an estimate as  
441 to the beginning and ending dates for this period of time.
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443 If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned  
444 medical treatment appointments for the covered servicemember, the certification must state that  
445 there is a medical necessity for the covered servicemember to have such periodic care and must  
446 contain an estimate of the treatment schedule of such appointments.

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

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

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

462

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

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

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

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

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

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

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

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

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

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

527  
528  
529 When an eligible employee employed principally in an instructional capacity requests leave to care  
530 for a family member with a serious health condition, leave because of the employee's own serious  
531 health condition, or leave to care for a covered servicemember and the leave is foreseeable based  
532 on planned medical treatment and the employee would be on leave for greater than 20 percent of  
533 the total number of working days in the period during which the leave would extend, the school  
534 division may require the employee to elect either

- 535  
536           (1) to take leave for periods of a particular duration, not to exceed the duration of the planned  
537           medical treatment; or  
538  
539           (2) to transfer temporarily to an available alternative position offered by the school division  
540           for which the employee is qualified and that has equivalent pay and benefits and better  
541           accommodates recurring periods of leave than the employee's regular employment  
542           position.

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

- 546  
547                   (1) made a reasonable effort to schedule the treatment so as not to disrupt unduly the  
548                   operations of the Division, subject to approval of the health care provider; and  
549  
550                   (2) has provided the Division with not less than 30 days' notice before the date the  
551                   leave is to begin, of the employee's intention to take leave, except that if the date  
552                   of the treatment requires leave to begin in less than 30 days, the employee shall  
553                   provide such notice as is practicable.

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

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

562

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

566

567 (1) is taken to care for a covered servicemember; or

568

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

576

### 577 **Benefits During Family and Medical Leave**

578

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

583

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

589

### 590 **Return to Work**

591

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

596

597 The following return to work provisions apply to instructional employees:

598

599 (1) If an instructional employee begins family and medical leave more than five (5) weeks  
600 before the end of an academic term, the employee may be required to continue taking leave  
601 until the end of an academic term if the leave is at least three (3) weeks in duration and the  
602 return to work would occur during the last three (3) weeks of the academic term.

603

604 (2) If an instructional employee begins family and medical leave a) because of the birth,  
605 adoption, or foster care placement of a son or daughter of the employee, b) to care for a  
606 family member with a serious health condition, or c) to care for a covered servicemember  
607 during the five (5) week period before the end of an academic term, the employee may be  
608 required to continue taking leave until the end of the academic term if the leave is longer

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

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

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

623  
624 **Outside Employment**

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

630  
631  
632 Adopted: January 7, 1999  
633 Amended: April 20, 2006  
634 Amended: May 5, 2016

635  
636  
637 Legal Refs.:

638  
639 29 U.S.C. §§ 207, 2601, et seq., 2611, 2612, 2613, 2614, 2618, 2619  
640  
641 29 CFR §§ 825.110, 825.115, 825.122, 825.124, 825.125, 825.200, 825.203,  
642 825.207, 825.300, 825.301, 825.302, 825.303, 825.305, 825.306, 825.307, 825.309,  
643 825.310, 825.311, 825.312, 825.600, 825.602, 825.603, , 825.604 825.800.

644  
645 Family & Medical Leave Act (FMLA) Forms:

646  
647 Employee Rights and Responsibilities Under the Family and Medical Leave Act  
648 (WHD Publication 1420) (Revised April 2016)  
649 <http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>

650  
651 Certification of Health Care Provider for Employee’s Serious Health Condition  
652 (Family and Medical Leave Act) (Form WH-380-E) (Revised June 2020)  
653 <http://www.dol.gov/whd/forms/WH-380-E.pdf>

654

655 Certification of Health Care Provider for Family Member’s Serious Health Condition  
656 (Family and Medical Leave Act) (Form WH-380-F) (Revised June 2020)  
657 <http://www.dol.gov/whd/forms/WH-380-F.pdf>

658  
659 Notice of Eligibility and Rights & Responsibilities Under the Family and Medical Leave  
660 Act (Form WH-381) (Revised June 2020)  
661 <http://www.dol.gov/whd/forms/WH-381.pdf>

662  
663 Designation Notice Under the Family and Medical Leave Act (Form WH-382) (Revised  
664 June 2020)  
665 <http://www.dol.gov/whd/forms/WH-382.pdf>

666  
667 Certification of Qualifying Exigency for Military Family Leave Under the Family and  
668 Medical Leave Act (Form WH-384) (Revised June 2020)  
669 <http://www.dol.gov/whd/forms/WH-384.pdf>

670  
671 Certification for Serious Injury or Illness of Covered Service member—for Military  
672 Family Leave Under the Family and Medical Leave Act) (Form WH-385) (Revised June  
673 2020)  
674 <http://www.dol.gov/whd/forms/WH-385.pdf>

675  
676 Certification for Serious Injury or Illness of a Veteran for Military Caregiver  
677 Leave Under the Family and Medical Leave Act) (Form WH-385-V) (Revised  
678 June 2020)  
679 <http://www.dol.gov/whd/forms/wh385V.pdf>

680  
681  
682 Cross Refs.: GCBD Staff Leaves and Absences  
683 GCBEA Leave without Pay  
684 GCBEB Military Leave and Benefits  
685 GCQA Nonschool Employment by Staff Members

**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**

~~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.~~

~~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 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~~

**Commented [1]:** After revisions and unless otherwise noted, this is word for word the VSBA model policy.

**Commented [2]:** Notes:  
- "Husband and wife" language is not inclusive  
- Married couple gets 12 weeks together. Equity concern - provide leave individually. Conversation around exploring paid family leave, balancing with ACPS' generous sick leave policy. Curious how ACPS compares to other districts.

**Commented [3]:** I would be interested in exploring the possibility of paid FMLA. Are there other divisions that provide this?

**Commented [4]:** Definitions have been placed in alphabetical order but haven't been changed.



48 least twelve (12) months of service with the Alexandria City Public Schools (ACPS) school  
49 division and have worked at least 1250 hours according to the Fair Labor Standards Act,  
50 29 U.S.C § 201 et seq., in the twelve (12) months preceding the commencement of leave.  
51 Full-time teachers are deemed to meet the 1250 hour test.

52  
53 Instructional employee: Employees whose principal function is to teach and instruct  
54 students in a class, a small group, or an individual setting such as teachers, athletic coaches,  
55 driving instructors, and special education assistants such as signers for the hearing  
56 impaired. This term does not include teacher assistants or aides who do not have as their  
57 principal function actual teaching or instructing, or auxiliary personnel such as counselors,  
58 psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers,  
59 or other primarily non-instructional employees.

60  
61 **Next of kin:** The term “next of kin” used with respect to an individual, means the nearest  
62 blood relative of that individual other than the covered service member’s spouse, parent,  
63 son, or daughter, in the following order of priority: blood relatives who have been granted  
64 legal custody of the covered service member by court decree or statutory provisions,  
65 brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered  
66 service member has specifically designated in writing another blood relative as his or her  
67 nearest blood relative for purposes of military caregiver leave under the FMLA. When no  
68 such designation is made, and there are multiple family members with the same level of  
69 relationship to the covered service member, all such family members shall be considered  
70 the covered service member’s next of kin and may take FMLA leave to provide care to the  
71 covered service member, either consecutively or simultaneously. When such designation  
72 has been made, the designated individual shall be deemed to be the covered service  
73 member’s only next of kin.

74  
75 **Outpatient status:** The term “outpatient status,” with respect to a covered service member,  
76 means the status of a member of the Armed Forces assigned to

- 77  
78 A. a military medical treatment facility as an outpatient; or  
79  
80 B. a unit established for the purpose of providing command and control of members  
81 of the Armed Forces receiving medical care as outpatients.

82  
83 Serious health condition: A serious health condition is an illness, injury, impairment or  
84 condition that involves inpatient care or continuing treatment by a health care provider.

85  
86 **Serious injury or illness:** The term “serious injury or illness,” in the case of

- 87  
88 • a member of the Armed Forces, including a member of the National Guard or  
89 Reserves, means an injury or illness incurred by the member in line of duty on  
90 active duty in the Armed Forces (or existed before the beginning of the member’s  
91 active duty and was aggravated by service in line of duty on active duty in the  
92 Armed Forces) and that may render the member medically unfit to perform the  
93 duties of the member’s office, grade, rank, or rating; and  
94

- a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S.C. § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

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

### Notices to Employees

#### Posting and General Notice

~~The Alexandria City school division shall ACPS~~ posts in conspicuous places, on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor.

A copy of the notice ~~shall be is also~~ given to each employee upon hiring.

#### Eligibility Notice

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

#### Notice of Rights and Responsibilities

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

- that the leave may be designated and counted against the employee's annual FMLA leave entitlement and the 12-month period for FMLA entitlement;
- any requirements for the employee to furnish certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status, and the consequences of failing to provide certification;

**Commented [5]:** The notices section has been moved up to improve readability and match the model policy.

- 140 ● that the Division will substitute paid leave for unpaid leave and any conditions related to
- 141 the substitution and the employee's right to take unpaid FMLA leave if the employee does
- 142 not meet the conditions for paid leave;
- 143 ● any requirement for the employee to make any premium payments to maintain health
- 144 benefits and the arrangements for making such payments, and the possible consequences
- 145 of failure to make such payments on a timely basis;
- 146 ● the employee's rights to maintenance of benefits during the FMLA leave and restoration
- 147 to the same or an equivalent job upon return from FMLA leave; and
- 148 ● the employee's potential liability for payment of health insurance premiums paid by the
- 149 employer during the employee's unpaid FMLA leave if the employee fails to return to work
- 150 after FMLA leave.

151 The Notice of Rights and Responsibilities shall~~should~~ be accompanied by any required

152 certification form.

153

154

155 The Notice of Rights and Responsibilities will also include notice that employees on FMLA leave

156 must report their status and intention regarding returning to work to the Division at least every four

157 weeks.

158

159 If the information provided by the Notice of Rights and Responsibilities changes, the Division

160 will, within five business days of receipt of the employee's first notice of need for leave subsequent

161 to any change, provide written notice referencing the prior notice and setting forth any of the

162 information in the Notice of Rights and Responsibilities that has changed.

#### 163 Designation Notice

164

165

166 When the Division has enough information to determine whether the leave is being taken for

167 FMLA-qualifying reasons, the Division should give the employee written notice whether the leave

168 will be designated and will be counted as FMLA leave within five business days. If the Division

169 determines that the leave will not be designated as FMLA-qualifying, the Division must inform

170 the employee of that determination. The Division will also notify the employee that paid leave

171 must be substituted for unpaid FMLA leave or that paid leave taken under an existing leave plan

172 be counted as FMLA leave at the time of designating the FMLA leave.

173

174 If the Division will require the employee to present a fitness-for-duty certification to be restored

175 to employment after taking leave for a continuous period of time, the Division will provide notice

176 of the requirement with the Designation Notice. If the Division will require that the fitness-for-

177 duty certification address the employee's ability to perform the essential functions of the

178 employee's position, the Division must so indicate in the Designation Notice and must include a

179 list of the essential functions of the employee's position.

180

181 If the Division has reasonable safety concerns regarding the ability of an employee who is

182 returning to work after intermittent or reduced leave schedule to perform his or her duties based

183 on the serious health condition for which the employee took leave, it may require the employee to

184 submit a fitness for duty certification unless one has been submitted within the past 30 days.

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

189  
190 If the information provided by the Division to the employee in the Designation Notice changes,  
191 the Division will provide, within five business days of receipt of the employee's first notice of  
192 need for leave subsequent to any change, written notice of the change.

193  
194 The Division will notify the employee of the amount of leave counted against the employee's  
195 FMLA leave entitlement. If the amount of leave needed is known at the time the employer  
196 designates the leave as FMLA-qualifying, the Division must notify the employee of the number of  
197 hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the  
198 Designation Notice. If it is not possible to provide the hours, days, or weeks that will be counted  
199 against the employee's FMLA leave entitlement, then the Division must provide notice of the  
200 amount of leave counted against the employee's FMLA leave entitlement upon request by the  
201 employee but no more often than once in a 30-day period and only if leave was taken in that period.

202  
203 The Division's decision to designate leave as FMLA-qualifying will be based only on information  
204 received from the employee or the employee's spokesperson. If the Division does not have  
205 sufficient information about the reason for an employee's use of leave, the Division will inquire  
206 further of the employee or the spokesperson to ascertain whether leave is potentially FMLA-  
207 qualifying. Once the Division has knowledge that the leave is being taken for FMLA-qualifying  
208 reasons, the Division will provide the employee the notice described in this subsection.

209  
210 An employee giving notice of the need for FMLA leave must explain the reasons for the needed  
211 leave so as to allow the Division to determine whether the leave is FMLA-qualifying. If the  
212 employee fails to explain the reasons, leave may be denied.

213  
214  
215 **Leave Period**

216  
217 Any eligible employee is entitled to leave for a combined total of twelve (12) weeks per year for  
218 the following situations:

- 219  
220 (1) ~~t~~he birth and care of a newborn child;
- 221  
222 (2) ~~t~~he adoption or foster placement of a child;
- 223  
224 (3) ~~t~~o care for an employee's spouse, parent, or child with a serious health condition;
- 225  
226 (4) ~~b~~ecause of a serious health condition that makes the employee unable to perform the  
227 essential functions of the employee's job; and
- 228  
229 (5) ~~b~~ecause of any qualifying exigency as defined in Department of Labor regulations,  
230 arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on  
231 covered active duty (or has been notified of an impending call or order to covered active  
232 duty) in the Armed Forces.

233  
234 However, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered  
235 service-member is entitled to a total of 26 workweeks of leave per year to care for the service  
236 member. Leave under this paragraph is available only during a single year. During that year the  
237 employee is entitled to a combined total of 26 workweeks of leave under this policy.

238  
239 To the extent that an employee is entitled to compensated leave under other ~~Alexandria City school~~  
240 ~~division-ACPS~~ policies, such paid leave shall be ~~substituted for unpaid FMLA leave used~~  
241 ~~concurrently with the family and medical leave entitlement~~. Otherwise, family and medical leave  
242 is unpaid. When paid leave is available, the employee must satisfy any procedural requirements  
243 of ~~ACPS's the Division's~~ paid leave policy.

Commented [6]: Changed to match the model policy. I'm not sure which version provides more clarity...

244  
245 Employees on FMLA leave ~~will be required to~~ must report their status and intention regarding  
246 returning to work to the school division every four weeks.

## 247 H: Types of Leave

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

250  
251 The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at  
252 the end of the twelve month period beginning on the date of the birth, adoption or foster placement.  
253 Leave taken for the birth, adoption or foster placement of a child may be taken intermittently or  
254 on a reduced leave schedule if the Superintendent ~~or designee~~ agrees to such an arrangement.

255  
256 If the necessity for leave for the birth, adoption or foster placement of a child is foreseeable based  
257 on an expected birth or placement, the employee shall provide the employer with not less than 30  
258 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the  
259 date of the birth or placement requires leave to begin in less than 30 days, the employee shall  
260 provide such notice ~~as is practicable within two work days of when the need becomes known~~. The  
261 employee's notice should be sufficient to make the Division aware that the employee needs  
262 FMLA-qualifying leave and of the anticipated timing and duration of the leave.

Commented [7]: Per the VSBA model policy and other similar statements in other locations in the policy. The DOL statement is "it is possible and practical to do so."

### 263 **Leave For Serious Health Condition of Employee**

264  
265 Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced  
266 leave schedule except as provided below.

REF:  
<https://www.dol.gov/agencies/whd/fact-sheets/28e-fmla-employee-notice#:~:text=is%20possible%20and%20practical%20to%20do%20so.>

267  
268 If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

- 269  
270  
271  
272 (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations  
273 of the Division; and  
274  
275 (2) provide the Division with at least 30 days' notice, before the date the leave is to begin, of  
276 the employee's intention to take leave. If the date of the treatment requires leave to begin  
277 in less than 30 days, the employee shall provide such notice ~~as is practicable within two~~  
278 ~~work days of when the need becomes known~~.

Commented [8]: How do we determine practicable?

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

282  
283 The ~~School~~ Board may require that a request for leave because of the employee's own serious  
284 health condition be supported by a certification issued by a health care provider of the employee.  
285 The Division should request that the employee furnish certification when the employee gives  
286 notice of the need for leave or within five business days thereafter, or, in the case of unforeseen  
287 leave, within five business days after the leave begins. The Division may request certification at  
288 a later date if it later has reason to question the appropriateness of the leave or its duration. The  
289 employee must provide a complete and sufficient certification within 15 calendar days after the  
290 Division's request. When the Division requests certification, it will advise the employee of the  
291 anticipated consequences of the employee's failure to provide adequate certification.

292  
293 Certification will be sufficient if it states

- 294  
295 (1) ~~the name, address, telephone number and fax number of the health care provider and the~~  
296 ~~type of medical practice/specialization;~~ the date on which the serious health condition  
297 commenced;
- 298  
299 (2) ~~the approximate date on which the serious health condition commenced and the its~~ probable  
300 ~~duration of the condition;~~
- 301  
302  
303 (3) ~~a statement or description of~~ the appropriate medical facts ~~regarding the employee's health~~  
304 ~~condition for which FMLA leave is requested. The medical facts must be sufficient to~~  
305 ~~support the need for leave within the knowledge of the health care provider regarding the~~  
306 ~~condition;~~ and
- 307  
308 (4) ~~information sufficient to establish that the employee is unable to perform the essential~~  
309 ~~functions of the employee's position, the nature of any other work restrictions, and the~~  
310 ~~likely duration of such inability, a statement that the employee is unable to perform the~~  
311 ~~function of his or her position due to the employee's health condition~~

312  
313 ~~If an employee requests FMLA leave is to be taken on an intermittent or reduced leave schedule~~  
314 ~~for planned medical treatment of the employee's serious health condition,~~ the certification shall  
315 include ~~information sufficient to establish the medical necessity for such intermittent or reduced~~  
316 ~~schedule leave and an estimate of~~ the dates on which such treatment is expected to be given and  
317 the duration of such treatment ~~and any period of recovery.~~ ~~If an employee takes leave on an~~  
318 ~~intermittent or reduced leave schedule because of his or her own serious health condition, the~~  
319 ~~certification shall include a statement of the medical necessity for the intermittent leave or leave~~  
320 ~~on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave~~  
321 ~~schedule.~~

322  
323 If an employee requests leave on an intermittent or reduced leave schedule because of ~~his or her~~  
324 ~~the employee's~~ own serious health condition that may result in unforeseeable episodes of  
325 incapacity, the certification shall include information sufficient to establish the medical necessity

Commented [9]: Can we clarify when the Board can request this? It seems there's room for bias here.

Commented [10]: Adjusted to align with the VSBA model policy and the same statements occurring in other locations in the document.

326 for the intermittent leave or leave on a reduced leave schedule, and an estimate of the frequency  
327 and duration of the episodes of incapacity.

328  
329 If the employee submits a complete and sufficient certification signed by the health care provider,  
330 the Division may not request additional information from the health care provider. However, the  
331 Division may contact the health care provider for purposes of clarification and authentication of  
332 the medical certification. To make such contact, the Division must use a health care provider, a  
333 human resources professional, a leave administrator, or a management official. The employee's  
334 direct supervisor may not contact the employee's health care provider.

335  
336 If the school division doubts the validity of a certification, it may require, at its own expense, that  
337 the employee obtain the opinion of a second health care provider designated or approved by the  
338 school division concerning any information certified. The health care provider designated or  
339 approved by the school division may not be employed by the school division on a regular basis.

Commented [11]: Again, I think some clarity here could prevent bias. Doubts validity based on evidence of document forgery or other criteria.

340  
341 If the second opinion differs from the original certification, the school division may require, at its  
342 own expense, that the employee obtain the opinion of a third health care provider designated or  
343 approved jointly by the school division and the employee concerning the certified  
344 information~~information certified~~. The opinion of the third health care provider will be binding on  
345 both the school division and the employee.

#### 346 347 **Leave For Serious Health Condition of a Child, Spouse or Parent of Employee**

348  
349 Family and medical leave ~~shall be is~~ provided when the employee is needed to care for his/her the  
350 employee's spouse, child, or parent with a serious health condition, as defined above. Employees  
351 are entitled, when medically necessary, to take such leave on an intermittent or reduced leave  
352 schedule except as provided below.

353  
354 If the necessity for leave is foreseeable based on planned medical treatment, the employee shall

- 355  
356 (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the  
357 operations of the Division; and  
358  
359 (2) provide the Division with at least 30 days' notice before the date the leave is to begin, of  
360 the employee's intention to take leave. If the date of the treatment requires leave to begin  
361 in less than 30 days, the employee shall provide such notice as is practicable.

362  
363 The employee's notice should be sufficient to make the Division aware that the employee needs  
364 FMLA-qualifying leave and the anticipated timing and duration of the leave.

365  
366 The ~~School~~ Board may require that a request for leave to care for an employee's spouse, parent,  
367 or child with a serious health condition be supported by a certification issued by a health care  
368 provider of the ~~employee, or~~ family member in need of care. The Division should ask the employee  
369 to furnish certification when the employee gives notice of the need for leave or within five business  
370 days thereafter, or, in the case of unforeseen leave, within five business days after the leave begins.  
371 The Division may request certification at some later date if it has reason to question the  
372 appropriateness of the leave or its duration. The employee must provide the requested certification



373 within 15 calendar days after the Division's request. When the Division requests certification, it  
374 will advise the employee of the anticipated consequences of the employee's failure to provide  
375 adequate certification.

376  
377 Certification will be sufficient if it states:

- 378 (1) the name, address, telephone number, and fax number of the health care provider  
379 and type of medical practice/specialization;  
380  
381 (2) the approximate date on which the serious health condition commenced and its  
382 probable duration;  
383  
384 (3) a statement or description of appropriate medical facts regarding the patient's health  
385 condition for which FMLA leave is requested. The medical facts must be sufficient  
386 to support the need for leave; and  
387  
388 (4) information sufficient to establish that the family member is in need of care and an  
389 estimate of the frequency and duration of the leave required to care for the family  
390 member.  
391

392  
393 If ~~an employee requests leave~~ ~~FMLA leave is to be taken~~ on an intermittent or reduced leave  
394 schedule for planned medical treatment of a family member's serious health condition, the  
395 certification shall include information sufficient to establish the medical necessity for such  
396 intermittent or reduced leave schedule and an estimate of the dates and the duration of such  
397 treatments and any periods of recovery.

398  
399 If the employee ~~takes requests~~ leave on an intermittent reduced leave schedule in order to care for  
400 a family member with a serious health condition, the certification shall include a statement that the  
401 employee's intermittent leave or leave on a reduced leave schedule is medically necessary for the  
402 care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in  
403 their recovery, and the expected duration and schedule of the intermittent leave or reduced leave  
404 schedule.

405  
406 If the employee submits a complete and sufficient certification signed by the health care provider,  
407 the Division may not request additional information from the health care provider. However, the  
408 Division may contact the health care provider for purposes of clarification and authentication of  
409 the medical certification. To make such contact, the Division must use a health care provider, a  
410 human resources professional, a leave administrator, or a management official. The employee's  
411 direct supervisor may not contact the health care provider.

412  
413 If the school division doubts the validity of a certification, it may require, at its own expense, that  
414 the employee obtain the opinion of a second health care provider designated or approved by the  
415 school division concerning any information certified. The health care provider designated or  
416 approved by the school division may not be employed by the school division on a regular basis.

417  
418 If the second opinion differs from the original certification, the school division may require, at its  
419 own expense, that the employee obtain the opinion of a third health care provider designated or

Commented [12]: I'm wondering why we wouldn't use FMLA in the policy? Are we saying that regular leave and FMLA are the same?



420 approved jointly by the school division and the employee concerning the certified  
421 ~~information~~information certified. The opinion of the third health care provider will be binding on  
422 both the school division and the employee.

423  
424 **Leave to Care for a Covered Service member**

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

- 427  
428  
429 (1) make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations  
430 of the Division; and  
431  
432 (2) provide the Division with at least 30 days' notice, before the date the leave is to begin, of  
433 the employee's intention to take leave. If the date of the treatment requires leave to begin  
434 in less than 30 days, the employee shall provide such notice as is practicable.

435  
436 The employee's notice should be sufficient to make the Division aware that the employee needs  
437 FMLA-qualifying leave and the anticipated timing and duration of the leave.

438  
439 The ~~School~~ Board may require that a request for leave to care for a covered service-member with  
440 a serious injury or illness be supported by a certification issued by a health care provider of the  
441 covered service-person. The certification may be completed by any health care provider listed in  
442 29 C.F.R. 825.310(a). The employee shall provide, in a timely manner, a copy of such certification  
443 to the school division.

444  
445 Certification will be sufficient if it states

- 446  
447 (1) the name, address, and appropriate contact information (telephone number, fax  
448 number, and/or email address) of the health care provider, the type of medical  
449 practice, the medical specialty, and whether the health care provider is one of the  
450 following: a United States Department of Defense (DOD) health care provider, a  
451 United States Department of Veterans Affairs (VA) health care provider, a DOD  
452 TRICARE network authorized private health care provider, or a DOD non-network  
453 TRICARE authorized health care provider or a health care provider as defined in  
454 29 C.F.R. 825.125;  
455  
456 (2) whether the covered service-member's injury or illness was incurred in the line of  
457 duty on active duty;  
458  
459 (3) the approximate date on which the serious health condition or serious injury or  
460 illness commenced or was aggravated and its probable duration;  
461  
462 (4) a statement or description of appropriate medical facts regarding the covered  
463 service-member's health condition for which FMLA leave is requested. The  
464 medical facts must be sufficient to support the need for leave; and  
465

Commented [13]: This the first time DOD is used in this document.

466 (5) information sufficient to establish that the covered service-member is in need of  
467 care and whether the covered service-member will need care for a single continuous  
468 period of time, including any time for treatment and recovery, and an estimate as  
469 to the beginning and ending dates for this period of time.

470  
471 If an employee requests FMLA leave on an intermittent or reduced leave schedule for planned  
472 medical treatment appointments for the covered service-member, the certification must state that  
473 there is a medical necessity for the covered service-member to have such periodic care and must  
474 contain an estimate of the treatment schedule of such appointments.

475  
476 If an employee requests FMLA leave on an intermittent or reduced schedule basis to care for a  
477 covered service-member other than for planned medical treatment, the certification must contain a  
478 statement that there is a medical necessity for the covered service-member to have such periodic  
479 care, and must contain an estimate of the frequency and duration of the periodic care.

480  
481 In addition to the information listed above, the Division may also request that the certification set  
482 forth the information on the Certification for Serious Injury or Illness of Covered Service member  
483 for Military Family Leave, Form WH-385, ~~located online at [http://www.dol.gov/whd/forms/WH-](http://www.dol.gov/whd/forms/WH-385.pdf)~~  
484 ~~385.pdf~~.

485  
486 In lieu of Form WH-385, the Division ~~will accept~~s ~~invitational~~ travel orders (ITOs) or invitational  
487 travel authorizations (ITAs) issued to any family member to join an injured or ill service-member  
488 at ~~his or her the servicemember's~~ bedside. An ITO or ITA is sufficient certification for the duration  
489 of time specified in the ITO or ITA. During that time period, the employee may take leave to care  
490 for the covered service-member in a continuous block of time or on an intermittent basis.

491  
492 The information on the certification must relate only to the serious injury or illness for which the  
493 current need for leave exists. The Division may seek authentication or clarification of the  
494 certification, ITO, or ITA but may not seek second or third opinions. The Division may require  
495 an employee to provide confirmation ~~of the covered of covered~~ family relationship to the seriously  
496 injured or ill service-member.

497  
498 The Division ~~will also accept~~s as sufficient certification of the service-member's serious injury or  
499 illness documentation indicating the service-member's enrollment in the Department of Veterans  
500 Affairs Program of Comprehensive Assistance for Family Caregivers.

501 **Leave Related to a Qualifying Exigency Arising from Covered Active Duty or a Call to**  
502 **Covered Active Duty**

503  
504 If the necessity for leave because of a qualifying exigency arising from the fact that a family  
505 member is on covered active duty or has been notified of an impending call to covered active duty  
506 is foreseeable, the employee shall give such notice to the school division as is reasonable and  
507 practicable. The employee's notice should be sufficient to make the Division aware that the  
508 employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

509  
510 The first time an employee requests leave because of a qualifying exigency arising out of the  
511 covered active duty or call to covered active duty status (or notification of an impending call or

512 order to covered active duty) of a military member, the Division may require the employee to  
513 provide a copy of the military member's active duty orders or other documentation issued by the  
514 military which indicates that the military member is on covered active duty or call to covered  
515 active duty status and the dates of the military member's covered active duty service. A copy of  
516 new active duty orders or other documentation issued by the military shall be provided to the  
517 Division if the need for leave because of a qualifying exigency arises out of a different covered  
518 active duty or call to covered active duty status (or notification of an impending call or order to  
519 covered active duty) of the same or a different military member.

520  
521 A request for leave because of a qualifying exigency must be supported by

- 522  
523 (1) a statement or description signed by the employee of appropriate facts regarding  
524 the qualifying exigency for which FMLA leave is requested. The facts must be  
525 sufficient to support the need for leave;
- 526  
527 (2) the approximate date on which the qualifying exigency commenced or will  
528 commence;
- 529  
530 (3) the beginning and ending dates of absence if the employee requests leave because  
531 of a qualifying exigency for a single, continuous period of time;
- 532  
533 (4) an estimate of the frequency and duration of the qualifying exigency if the  
534 employee requests leave because of a qualifying exigency on an intermittent or  
535 reduced schedule basis;
- 536  
537 (5) if the qualifying exigency involves meeting with a third party, appropriate contact  
538 information for the individual or entity with whom the employee is meeting and a  
539 brief description of the purpose of the meeting; and
- 540  
541 (6) if the qualifying exigency involves Rest and Recuperation leave, a copy of the  
542 military member's Rest and Recuperation orders, or other documentation issued by  
543 the military which indicates that the military member has been granted Rest and  
544 Recuperation leave, and the dates of the military member's Rest and Recuperation  
545 leave.

#### 546 547 **Rules for Intermittent and Reduced Schedule Leave**

548  
549 When permitted by the FMLA, intermittent and reduced schedule leave may be used until the  
550 aggregate amount of such leave equals twelve weeks or twenty-six weeks if the leave is taken to  
551 care for a covered servicemember in the employee's rolling year. However, when the employee  
552 requests intermittent or reduced schedule leave that is foreseeable based on planned medical  
553 treatment the school division may temporarily transfer the employee to an available alternative  
554 position with equivalent pay and benefits that better accommodates the employee's intermittent or  
555 reduced schedule leave.

556  
557 ~~Instructional employees who need foreseeable intermittent or reduced schedule leave based on~~  
558 ~~planned medical treatment for their own serious health condition or to care for a spouse, parent, or~~

559 ~~child with a serious health condition and the leave would be greater than twenty percent of the~~  
560 ~~total number of working days over the period of leave may be required to elect either~~  
561 When an eligible employee employed principally in an instructional capacity requests leave to care  
562 for a family member with a serious health condition, leave because of the employee's own serious  
563 health condition, or leave to care for a covered servicemember and the leave is foreseeable based  
564 on planned medical treatment and the employee would be on leave for greater than 20 percent of  
565 the total number of working days in the period during which the leave would extend, the school  
566 division may require the employee to elect either

- 567
- 568 (1) ~~t~~To take leave for periods of a particular duration, not to exceed the duration of the planned  
569 medical treatment; or
- 570
- 571 (2) ~~t~~To transfer temporarily to an available alternative position offered by the school division  
572 for which the employee is qualified and that has equivalent pay and benefits and better  
573 accommodates recurring periods of leave than the employee's regular employment  
574 position.

575

576 The school division may require an employee to make such an election when the employee  
577 has

- 578 (1) ~~m~~Made a reasonable effort to schedule the treatment so as not to disrupt unduly the  
579 operations of the Division, subject to approval of the health care provider; and
- 580
- 581 (2) ~~h~~Has provided the Division with not less than 30 days' notice before the date the  
582 leave is to begin, of the employee's intention to take leave, except that if the date  
583 of the treatment requires leave to begin in less than 30 days, the employee shall  
584 provide such notice as is practicable.

585

586

587 **Rules for ~~Married Couples~~Husband and Wife Employed by Alexandria City Public Schools**

588

589 A ~~married couple~~husband and wife who are both eligible for family and medical leave and are  
590 employed by ~~ACPS~~Alexandria City Public Schools shall be granted family and medical leave only  
591 for a ~~combined total of twelve weeks~~ per year when the leave is taken for the birth, foster  
592 placement, or adoption of a child or to care for the child after birth, adoption or foster placement  
593 or to care for a parent, spouse, or child with a serious health condition.

594

595 A husband and wife who are both eligible for family and medical leave and are employed by  
596 ~~ACPS~~Alexandria City Public Schools shall be granted family and medical leave only for a  
597 combined total of 26 work weeks per year if the leave

- 598
- 599 (1) is taken to care for a covered service-member; or
- 600
- 601 (2) is taken as a combination of leave to care for a covered service-member and leave for the  
602 birth, foster placement, or adoption of a child or to care for the child after birth, adoption,  
603 or foster placement or to care for a parent with a serious health condition. However, if the  
604 leave taken by the husband and wife includes leave for the birth, foster placement, or  
605 adoption of a child or to care for the child after birth, adoption, or foster placement or to

Commented [14]: Changed to recognize other forms of marriage.

Commented [15]: Can ACPS chose to provide 12 weeks to each employee when two employees are married?

606 care for a parent with a serious health condition, the leave for that reason shall be limited  
607 to 12 workweeks per year.

608  
609 ~~Notices to Employees~~  
610 ~~Eligibility Notice~~

611 ~~When an employee requests FMLA leave, or the Division has knowledge that an employee's leave~~  
612 ~~may be for an FMLA-qualifying reason, the Division should notify the employee of the employee's~~  
613 ~~eligibility to take FMLA leave within five business days. The Eligibility Notice should state~~  
614 ~~whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave,~~  
615 ~~the Notice must state at least one reason why the employee is not eligible (such as, for example,~~  
616 ~~the number of months the employee has worked for the Division.) This notification may be~~  
617 ~~accomplished by providing the employee a copy of the Notice of Eligibility and Rights &~~  
618 ~~Responsibilities (Family and Medical Leave Act Form WH-381), located online at~~  
619 ~~<http://www.dol.gov/whd/forms/WH-381.pdf>.~~

620  
621 ~~Notice of Rights and Responsibilities~~

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

- 625 ~~• that the leave may be designated and counted against the employee's annual FMLA leave~~  
626 ~~entitlement and the 12-month period for FMLA entitlement;~~
- 627 ~~• any requirements for the employee to furnish certification of a serious health condition,~~  
628 ~~serious injury or illness, or qualifying exigency arising out of active duty or call to active~~  
629 ~~duty status, and the consequences of failing to provide certification;~~
- 630 ~~• that the Division will substitute paid leave for unpaid leave and any conditions related to~~  
631 ~~the substitution and the employee's right to take unpaid FMLA leave if the employee does~~  
632 ~~not meet the conditions for paid leave;~~
- 633 ~~• any requirement for the employee to make any premium payments to maintain health~~  
634 ~~benefits and the arrangements for making such payments, and the possible consequences~~  
635 ~~of failure to make such payments on a timely basis;~~
- 636 ~~• the employee's rights to maintenance of benefits during the FMLA leave and restoration~~  
637 ~~to the same or an equivalent job upon return from FMLA leave; and~~
- 638 ~~• the employee's potential liability for payment of health insurance premiums paid by the~~  
639 ~~employer during the employee's unpaid FMLA leave if the employee fails to return to work~~  
640 ~~after FMLA leave.~~

641  
642 ~~The Notice of Rights and Responsibilities should be accompanied by any required certification~~  
643 ~~form.~~

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

647 ~~If the information provided by the Notice of Rights and Responsibilities changes, the Division~~  
648 ~~will, within five business days of receipt of the employee's first notice of need for leave subsequent~~

Commented [16]: Moved up to improve readability and match the model policy

649 to any change, provide written notice referencing the prior notice and setting forth any of the  
650 information in the Notice of Rights and Responsibilities that has changed.

651 **Designation Notice**

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

659 If the Division will require the employee to present a fitness for duty certification to be restored  
660 to employment after taking leave for a continuous period of time, the Division will provide notice  
661 of the requirement with the Designation Notice. If the Division will require that the fitness for  
662 duty certification address the employee's ability to perform the essential functions of the  
663 employee's position, the Division must so indicate in the Designation Notice and must include a  
664 list of the essential functions of the employee's position.

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

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

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

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

683 The Division's decision to designate leave as FMLA-qualifying will be based only on information  
684 received from the employee or the employee's spokesperson. If the Division does not have  
685 sufficient information about the reason for an employee's use of leave, the Division will inquire  
686 further of the employee or the spokesperson to ascertain whether leave is potentially FMLA-  
687 qualifying. Once the Division has knowledge that the leave is being taken for FMLA-qualifying  
688 reasons, the Division will provide the employee the notice described in this subsection.

689 ~~An employee giving notice of the need for FMLA leave must explain the reasons for the needed~~  
690 ~~leave so as to allow the Division to determine whether the leave is FMLA qualifying. If the~~  
691 ~~employee fails to explain the reasons, leave may be denied.~~ **Benefits During Family and Medical**

692 **Leave**

693  
694 Employees on family and medical leave ~~shall~~ receive the group health insurance plan coverage on  
695 the same conditions as coverage would have been provided if the employee had been working  
696 during the period of leave. Other benefits ~~are shall be~~ provided according to the ~~Alexandria City~~  
697 ~~Public Schools ACPS~~ policy for paid or unpaid leave, whichever applies.

698  
699 If the employee fails to return to work when the period of leave to which he or she is entitled  
700 expires for any reason other than the continuation, recurrence, or onset of a serious health condition  
701 that entitles the employee to leave, or other circumstances beyond the employee's control, the  
702 school division may recover the premium it paid for maintaining the employee's coverage during  
703 the period of unpaid leave in accordance with federal law.

704  
705 **Return to Work**

706  
707 An employee on family and medical leave shall provide the Division at least two work days' notice  
708 of the intent to return to work. The employee shall be returned to the same or equivalent position  
709 at the end of the family and medical leave unless the Division shows that the employee would not  
710 otherwise have been employed at the time reinstatement is requested.

711 The following return to work provisions apply to instructional employees:

- 712  
713
- 714 (1) If an instructional employee begins family and medical leave more than five (5) weeks  
715 before the end of an academic term, the employee may be required to continue taking leave  
716 until the end of an academic term if the leave is at least three (3) weeks in duration and the  
717 return to work would occur during the last three (3) weeks of the academic term.  
718
  - 719 (2) If an instructional employee begins family and medical leave ~~a) because of the birth,~~  
720 ~~adoption, or foster care placement of a son or daughter of the employee, b) to care for a~~  
721 ~~family member with a serious health condition, or c) to care for a covered~~  
722 ~~servicemember for a purpose other than the employee's own serious health condition~~ during  
723 the five (5) week period before the end of an academic term, the employee may be required  
724 to continue taking leave until the end of the academic term if the leave is longer than two  
725 (2) weeks in duration and the return to work would occur during the last two (2) weeks of  
726 an academic term.  
727
  - 728 (3) If an instructional employee begins family and medical leave ~~a) because of the birth,~~  
729 ~~adoption, or foster care placement of a son or daughter of the employee, b) to care for a~~  
730 ~~family member with a serious health condition, or c) to care for a covered~~  
731 ~~servicemember for a purpose other than the employee's own serious health condition~~ during  
732 the three (3) week period before the end of an academic term, the employee may be  
733 required to continue taking leave until the end of an academic term if the leave is longer  
734 than five (5) working days in duration.  
735



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

740  
741 **Outside Employment**

742  
743 An employee who is on family and medical leave may not engage in employment for any other  
744 employer or self-employment while on leave. Falsification of records and failure to correct records  
745 known to be false are violations of this policy and will result in discipline which may include  
746 termination from employment.

747  
748 Adopted: January 7, 1999  
749 Amended: April 20, 2006  
750 Amended: May 5, 2016

751  
752  
753  
754 Legal Refs.: ~~10 U.S.C. § 101(a)(13)(B)~~  
755  
756 29 U.S.C. §§ 207, 2601, et seq., 2611, 2612, 2613, 2614, 2618, 2619  
757  
758 29 CFR §§ 825.110, 825.115, ~~825.122~~, 825.124, 825.125, 825.200, 825.203,  
759 825.207, 825.300, 825.301, 825.302, 825.303, 825.305, 825.306, 825.307, 825.309,  
760 825.310, 825.311, 825.312, 825.600, 825.602, 825.603, ~~825.604~~ 825.800.

761  
762 **Family & Medical Leave Act (FMLA) Forms:**

763  
764 Employee Rights and Responsibilities Under the Family and Medical Leave Act  
765 (WHD Publication 1420) (~~Revised April 2016~~)  
766 <http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>

767  
768 Certification of Health Care Provider for Employee's Serious Health Condition  
769 (Family and Medical Leave Act) (Form WH-380-E) (~~Revised June 2020~~)  
770 <http://www.dol.gov/whd/forms/WH-380-E.pdf>

771  
772 Certification of Health Care Provider for Family Member's Serious Health Condition  
773 (Family and Medical Leave Act) (Form WH-380-F) (~~Revised June 2020~~)  
774 <http://www.dol.gov/whd/forms/WH-380-F.pdf>

775  
776 Notice of Eligibility and Rights & Responsibilities ~~Under the~~  
777 ~~(Family and Medical Leave Act)~~ (Form WH-381) (~~Revised June 2020~~)  
778 <http://www.dol.gov/whd/forms/WH-381.pdf>

779  
780 Designation Notice ~~Under the~~  
781 ~~(Family and Medical Leave Act)~~ (Form WH-382) (~~Revised June 2020~~)  
782 <http://www.dol.gov/whd/forms/WH-382.pdf>

**Commented [17]:** These forms should also be kept in a location other than in the regulation, such as on the ACPS website.



783  
784 Certification of Qualifying Exigency for Military Family Leave  
785 Under the (Family and Medical Leave Act) (Form WH-384) (Revised June 2020)  
786 <http://www.dol.gov/whd/forms/WH-384.pdf>

787  
788 Certification for Serious Injury or Illness of Covered Service member—for Military  
789 Family Leave  
790 Under the (Family and Medical Leave Act) (Form WH-385) (Revised June 2020)  
791 <http://www.dol.gov/whd/forms/WH-385.pdf>

792  
793 Certification for Serious Injury or Illness of a Veteran for Military Caregiver  
794 Leave  
795 Under the (Family and Medical Leave Act) (Form WH-385-V) (Revised June  
796 2020)  
797 <http://www.dol.gov/whd/forms/wh385V.pdf>

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799  
800 Cross Refs.: GCBD Staff Leaves and Absences  
801 GCBEA Leave without Pay  
802 GCBEB Military Leave and Benefits  
803 GCQA Nonschool Employment by Staff Members

