

FAMILY AND MEDICAL LEAVE
(See Website for Forms)

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The Family and Medical Leave of Absence policy of the Potomac Conference outlines the conditions under which an employee may request time off with or without pay for a limited period with job and accrued benefit protection. **NOTE: Employee MUST apply for FMLA for any personal illness/medical condition greater than three (3) days!**

DEFINITION: A family and/or medical leave of absence shall be defined as an approved absence of an eligible employee for up to twelve weeks within a twelve-month period under particular circumstances that are critical to the life of a family. Leave may be taken for the following reasons:

1. Birth of an employee's child;
2. Placement of a child with an employee for adoption or foster care;
3. Need for an employee to care for a child, spouse, or parent who has a serious health condition;
4. When an employee is unable to perform the functions of his/her position because of a serious health condition.

SCOPE: The provisions of this policy shall apply to all family and/or medical leaves of absence approved for eligible employees for the reasons described above. However, if eligible employees have accrued paid leave benefits under employment benefit plans or policies of the employer, the employee will be required to use those accrued benefits to provide compensation during all or any part of the twelve weeks leave. (NOTE: If employee has accrued sick leave available, up to 4 weeks may be used toward qualifying family member FMLA need). If the employee's paid benefits are exhausted, the remainder, if any, of the family or medical leave will be unpaid. The use of accrued benefits will not extend the duration of a family or medical leave.

ELIGIBILITY: To be eligible for leave under this policy an employee must be employed in the United States, must have been employed by the employer for at least twelve months in total and must have worked for the employer at least 1,250 hours during the twelve-month period immediately preceding the commencement of leave. For purposes of eligibility, all full time teachers of an elementary or secondary school system or institution of higher education, or other educational establishment or institution, and all exempt employees, are deemed to meet the 1250 hour test unless the employer can clearly demonstrate that the employee did not work 1250 hours during the previous twelve months.

All employees within the North American Division who meet the above eligibility requirements, regardless of the size of the employer or location of the work site within the United States, are eligible for family and medical leave.

Reinstatement – An Employee who takes leave under this policy will be able to return to the same job or a job with equivalent status, pay, benefits, or one which requires substantially equivalent skill, effort, responsibility and authority.

1. *Determination* – The determination of how any employee of an elementary or secondary school is to be restored to an equivalent position upon return from Family and Medical Leave of Absence leave must be made on the basis of established North American Division or school board, conference, or board of education policy. Such policy must be in writing, must be

made known to the employee prior to the taking of Family and Medical Leave of Absence, must clearly explain the employer's restoration rights upon return from leave, and must provide substantially the same protections as provided by the Family and Medical Leave of Absence for reinstated employees.

2. *Exemption From Family and Medical Leave of Absence Policy* – The employer may choose to exempt certain salaried, highly compensated “key” employees from this requirement and not return them to the same or similar position.

3. *Completion of Leave* – Once leave has been completed, the employee must obtain job-related certification from the physician or health care provider that the employee is able to resume work.

Basic Requirements and Conditions of Leave –

1. *Certification* – The employer will require medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse or parent.

The employer may require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the employer, at its own expense, may require the binding opinion of a third health care provider approved jointly by the employer and the employee.

2. *Fitness for duty Certification* – An employee will need to obtain a job-related fitness for duty certificate from the attending physician or health care provider PRIOR to his/her return to work if the Family and Medical Leave of Absence was based on the employee's own serious health condition.

3. *Temporary Alternative but Equal Position* – If medically necessary for a serious health condition of the employee, his/her spouse, child or parent, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, however, the employer may require the employee to transfer temporarily to an alternative, but equivalent in pay and benefits position which better accommodates recurring periods of absence or a part time schedule.

a. When an instructional employee (one whose principal function is to teach and instruct students) of an elementary or secondary school requests intermittent or reduced leave for planned medical treatment for more than twenty percent of the total number of working days in the period during which the leave would be used, the employer may require the employee to elect either to:

- 1) Take leave for a particular duration of time which is not greater than the duration of the planned treatment, or
- 2) Be transferred to an equivalent alternative position.

b. Exempt employees will not be docked for Family and Medical Leave of Absence of less than one day.

NOTE: Leave for a particular duration means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. The entire period of leave taken will count as Family and Medical Leave of Absence leave.

4. *Spouses Employed by the Same Employer* – Spouses who are both employed by the same employer and are requesting family and medical leave for the same qualifying event are entitled to a total of twelve weeks of leave (rather than twelve week each) for the birth, adoption or placement of a child for foster care and for the care of a sick parent or a parent-in-law.

5. *Instructional Employee* – When an instructional employee (one whose principal function is to teach and instruct students) of an elementary or secondary school requests leave near the end of the academic term or semester, the following provisions apply:

- a) If the employee begins leave more than five weeks before the end of a term, and if the leave will last at least three weeks and the employee would otherwise return to work during the three weeks before the end of the term, the employer may require the employee to continue taking leave until the end of the term.
- b) If the employee takes leave for a reason other than the employee's own serious health condition which commences during the five weeks before the end of the term, and if the leave will last more than two weeks and the employee would otherwise return to work during the last two weeks of the term, the employer may require the employee to continue taking leave until the end of the term.
- c) If the employee takes leave for a reason other than the employee's own serious health condition which begins during the last three weeks of the term, and if the leave will last more than five working days, the employer may require the employee to take leave until the end of the term.

NOTE: When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide thirty days notice and make efforts to schedule leave so as not to disrupt employer operations. In unforeseen circumstances, thirty days of notification may not be possible. In such cases, as much prior notice as possible must be given. In cases of illness, the employee will be required to report periodically on his/her leave status and intention to return to work.

- d) If an employee fails to provide thirty days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be delayed until at least thirty days from the date the employer receives notice

Status of Employee Benefits During Leave of Absence – While an employee is on leave, the employer will continue the employee's health care benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

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1. *Employee Pays to Opt In Eligible Dependent(s)* – If the employee pays to opt in eligible dependent(s) and/or spouse, then while on paid leave the employer will continue to make payroll deductions. While on unpaid leave, the employee must continue to make this payment which must be received from the employee as directed by the employer. If the employee does not continue these payments, the employer may discontinue dependent/spouse coverage during the leave period or will recover payments at the end of the leave period, in a manner consistent with the law.

2. *Benefit Entitlements* – Benefit entitlements based upon length of service will be calculated as of the last paid day prior to the start of the unpaid leave of absence.