

DIOCESE OF DES MOINES
Catholic Schools Policies/Regulations

STAFF PERSONNEL

Family Medical Leaves of Absence

It shall be the policy of the Diocese of Des Moines Catholic Schools Board that all schools comply with the requirements of the Family Medical Leave Act.

The employer must provide, in a manner that all can read or view, the Fact Sheet #28: The Family and Medical Leave Act of 1993 (Regulation 430.2) and/or Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements (Regulation 430.3).

The employer must meet with the employee requesting a medical leave to explain the following requirements and give the employee the proper information and forms:

- Employee requesting FMLA leave must complete the Diocese of Des Moines Family Medical Leave Act Request Form (Regulation 430.4).
- Employer must give the employee the Certification of Health Care Provider for Family Member's Serious Health Condition (Regulation 430.5); Certification for Serious Injury or Illness of Covered Service member—for Military Family Leave (Regulation 430.6); or Certification of Qualifying Exigency For Military Family Leave (Regulation 430.7); form to be completed by the health care provider and returned to the employer.
- Employer must provide the employee with a completed Designation Notice (Regulation 430.8)
- Employer must provide the employee a completed copy of the Notice of Eligibility and Rights and Responsibilities (Regulation 430.9)

PART A. Employees Who Qualify for a Leave Under the Family and Medical Leave Act of 1993

The Catholic schools within the Diocese will grant a leave of absence to regular full-time and regular part-time employees (who meet the requirements described below) for:

- ***The care of a child after birth or placement with the employee for adoption or foster care.*** An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of a 12-month period beginning on the date of birth or placement.
- ***The care of a family member with a serious health condition.*** A covered family member is a spouse; a biological, adoptive, step or foster parent, but not an "in law"; a biological, adoptive, step or foster child, or legal ward who is under age 18, or who is 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.
- ***An employee's own serious health condition*** that makes the employee unable to perform the essential functions of the employee's job, or incapacity due to the employee's pregnancy or prenatal medical care. An employee who must be absent to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.
- ***Any qualifying exigency (emergency, need, urgency, demand) arising out of the fact that a family member (a spouse, child or parent) is serving in any branch of the Armed Forces,*** including a member of the National Guard or Reserves on active duty or has been notified of an impending call or order to active duty in support of a contingency operation; or
- ***The care of a service member with a serious injury or illness*** if the employee is the spouse, child, parent or next of kin of the service member.

Leaves will be granted for a period of up to twelve weeks (or up to 26 weeks in the case of care for a service member, as discussed below) in any twelve-month period. The twelve-month period is a rolling period, measured from the date qualifying leave is first taken.

Please note that special rules apply to "instructional employees" of the Diocese. An instructional employee is one whose principal function is to teach and instruct students in a class, small group or individual setting. It includes not only teachers, but also athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired.

An employee must have completed at least twelve months of service with the Diocese *and* have worked a minimum of 1,250 hours in the twelve-month period preceding the leave to be eligible for such leave. Service prior to a break in service of less than seven years will be counted in determining whether the employee has completed at least twelve months of service with the Diocese.

Employees who do not meet these requirements may apply for a leave of absence subject to the conditions described in Part B of this policy.

Scope of Military Exigency Leave

A qualifying military exigency means: (a) short-notice deployment (up to seven days of leave if the military member receives seven or less days' notice of a call to active duty); (b) military events and related activities; (c) certain temporary or alternative childcare arrangements and school activities (excluding ongoing regular childcare); (d) making or updating financial and legal arrangements to address the service member's absence resulting from active duty status; (e) counseling by a non-medical counselor, such as a member of the clergy, arising from the active duty or call to active duty; (f) rest and recuperation (up to five days of leave when the military member is on short-term, temporary rest and recuperation leave); and/or (g) post-deployment military activities.

Serious Health Condition Defined

The Family & Medical Leave Act broadly describes a serious health condition as an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.

The term "continuing treatment" is defined in the Department of Labor regulations as including five different scenarios:

- A period of incapacity of more than three full consecutive calendar days involving two or more treatments within 30 days of the first day of incapacity (absent extenuating circumstances), by or under the orders of a health care provider, or treatment by a health care provider on at least one occasion that results in a supervised regimen of continuing treatment (for example, prescription medications or specialized therapy). Treatment by a health care provider requires an in-person visit with the health care provider, the first (or only) in-person treatment visit taking place within seven days of the first day of incapacity;
- Pregnancy (including severe morning sickness) and time needed for prenatal visits;
- A chronic health condition, such as asthma, diabetes, or epilepsy, which require at least two visits for treatment by a healthcare provider per year;
- A long-term condition such as Alzheimer's, a severe stroke, or the terminal stages of a disease, for which treatment may not be effective; and
- Restorative surgery after an accident or other injury, or a condition that is likely to result in a period of incapacity of more than three full consecutive calendar days if left untreated, such as physical therapy for severe arthritis or chemotherapy for cancer.

(Note: any period of incapacity that is the result of pregnancy or a chronic serious health condition, such as morning sickness or an asthma attack, qualifies for FMLA leave even if the employee does not receive treatment from a health care provider or the absence does not last more than three full, consecutive days.)

Service Member Family Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin (usually, the nearest blood relative) of a covered service member shall be entitled to a total of 26 work weeks of leave during a twelve (12) month period to care for the service member. The leave described in this paragraph shall be available only during a single 12-month period. A “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 illness or injury. A “covered service member” also includes a veteran in any of the same statuses, or who is otherwise on the permanent disability retired list, at any time during the period of 5 years proceeding the date on which the veteran undergoes the medical treatment, recuperation or therapy. For purposes of this paragraph only, the term “serious illness or injury” means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces (or that pre-existed active duty and was aggravated by service in the line of duty on active duty) that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating. This leave entitlement is applied on a *per-covered-service-member, per-injury basis*.

Leave Entitlement and Schedule

Eligible employees are entitled to leave for up to twelve weeks (or up to 26 weeks in the case of care for a service member as discussed above) in any twelve-month period (or longer if required by applicable state or local law or, in the case of a leave for an employee's serious health condition, where a leave extension is requested and approved).

Leave taken to care for a child after birth or placement in your home for adoption or foster care must be taken in consecutive workweeks. Leave taken for the employee's or a covered family member's (or nearest blood relative in the case of service member leave) serious health condition may be taken consecutively, intermittently, or on a reduced work/leave schedule based on certified medical necessity.

To accommodate an intermittent or reduced schedule FMLA leave when the leave is foreseeable based on planned medical treatment for the employee or a covered family member, the employee may be transferred on a temporary basis to an alternative position for which the employee is qualified. The alternative position will have equivalent pay, benefits, and terms and conditions of employment.

Combined Leave Total

If an eligible employee qualifies in the applicable 12 month period for leave to care for a service member and leave for one of the other purposes described above, that employee shall be entitled to a combined total of 26 work weeks of leave. If both a husband and wife are employed by the same employer in the Diocese and are eligible for service member family leave, then they are entitled to take only a combined total of 26 work weeks of leave during the single 12-month period.

When an eligible husband and wife are both employed by the same employer within the Diocese, and are not eligible for service member family leave, they may take only a combined total of 12 weeks during the applicable twelve month period if the leave is taken (1) for the birth of a child and to care for such child; (2) for the placement of a child for adoption or foster care and to care for such child; or (3) to care for his/her own parent (not an “in-law”) with a serious health condition.

Special Rules for Instructional Employees

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member or covered service member with a serious health condition, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, then the employer may require the employee to choose either to take leave for the duration of the planned treatment or transfer temporarily to an equivalent position which better accommodates recurring periods of leave. If an instructional employee does not give required notice of foreseeable FMLA leave, then the employer may require the employee to delay the taking of leave until the notice provision is met.

- 1) If an instructional employee begins leave more than five weeks before the end of a term, the employer may require the employee to continue taking leave until the end of the term if the leave will last at least three weeks and the employee would return to work during the three week period before the end of the term.
- 2) If an instructional employee begins leave during the five week period before the end of a term for any reason other than qualifying military exigency or the employee's own serious health condition (except childbirth or placement of a child from adoption or foster care), the employer may require the employee to continue taking leave until the end of the term if the leave will last more than two weeks and the employee would return to work during the two week period before the end of the term.
- 3) If an instructional employee begins leave during the three week period before the end of a term for any reason other than qualifying military exigency or the employee's own serious health condition (except childbirth or placement of a child from adoption or foster care), the employer may require the employee to continue taking leave until the end of the term if the leave will last more than five working days.
- 4) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA entitlement.

Reinstatement Rights

Eligible employees are entitled on return from leave to be reinstated to their former position or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Exceptions to this provision may apply if business circumstances have changed (e.g., if the employee's position is no longer available due to a job elimination). In addition, employees on a leave extension are not guaranteed reinstatement.

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