401 Family Medical Leave Act

401 FAMILY AND MEDICAL LEAVE ACT

The purpose of the Family and Medical Leave Act of 1993 (the "Act") is to assist employees in balancing work life and family matters by providing for unpaid leave for special health or family related needs. An "eligible" employee is entitled to up to 12 weeks of unpaid leave during a 12-month period. The Act grants continued medical benefits to employees while on leave and, in most cases, provides restoration to the same or equivalent position upon completion of leave. This Policy shall be interpreted and applied in all respects to ensure compliance with the Act.

401.1 GENERAL PROVISIONS

401.1.1 Compliance with Family and Medical Leave Act:

It is the policy of the Archdiocese to comply with the Family and Medical Leave Act.

401.1.2 Definitions:

Spouse – a husband or wife as defined or recognized under Maryland law for purposes of marriage.

Son or Daughter –a biological, adopted, or foster child, as well as a stepchild, legal ward, or a child of a person acting "in loco parentis" who is under 18 years of age or over 18 years of age but incapable of self-care.

Parent – includes a biological parent but also a person who acted in the capacity of a parent ("in loco parentis") to the employee when the employee was a child.

Health Care Provider – includes licensed physicians and osteopaths, podiatrists, dentists, clinical psychologists, optometrists, chiropractors performing within their scope of practice, nurse practitioners and nurse-midwives who are authorized to practice under the law of their State, and Christian Science practitioners.

Serious Health Condition – means an illness, injury, impairment, or physical or mental condition that involves:

Any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility;

or

A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by or under the supervision of a health care provider; or

Any period of incapacity due to pregnancy, or for prenatal care; or

Any period of incapacity (or treatment therefore) due to a chronic serious health condition; or

A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective; or

Any absences to receive multiple treatments, including any period of recovery therefrom, by, or on a referral by a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated.

401.1.3 Applicability:

It is Archdiocesan policy that all parishes and schools, regardless of number of employees, shall comply with the Act.

401.1.4 Eligible Employees:

An employee is eligible for Family and Medical Leave (FML) if

The employee has been employed by a parish/school for at least twelve months; and

The employee has regularly worked for at least 1,250 hours during the immediately preceding twelve month period.

For multi-location employees, hours worked at all locations are counted to determine eligibility for FML.

An Archdiocesan employee's work experience in one location will transfer to another Archdiocesan location if the work experience would make the employee eligible for FML.

401.1.5 Permitted Uses of FML:

An employee may use FML for:

The birth of a son or daughter and to care for the newborn child;

Placement of a child for adoption or foster care;

To care for a spouse, son, daughter, or parent with a serious health condition;

When the employee is unable to work because of a serious health condition;

A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a deployment or contingency operation to a foreign country;

To care for a covered service member with a serious injury or illness if the service member is the employee's spouse, son, daughter, parent, or next of kin (up to 26 weeks in a single 12-month period).

401.1.6 Notice and Scheduling Requirements:

An employee shall provide the parish/school or Human Resources (for Central Services employees) with at least 30 days' advance notice of the intent to take FMLA leave if the need is foreseeable. If the need is unforeseeable, notice shall be given as soon as practicable.

401.1.7 Leave Periods:

FML leave may be taken:

All at once;

Intermittently (in separate blocks of time due to a single health condition); or

On a reduced leave schedule (reducing the usual number of hours worked per workweek or workday).

401.1.8 Designation of Leave:

It is the employer's responsibility and right to designate leave as FML.

Procedure:

A) If the employee requests FML, the employer determines if the employee qualifies for FML and advises the employee of the determination by using the form entitled "Employer Response to Employee Request for Family/Medical Leave."

B) If an employee requests time off from work, the employer must determine if the reason for the requested time qualifies under FMLA, even if the employee does not specifically request FML. An employer should consult with the Division of Human Resources regarding whether the leave may qualify for FML if the time off relates to: the birth or adoption of a child, caring for the illness of a family member, a call to duty of a service member, or the employee's own illness if the illness is of a chronic nature, results in three or more days out of work, hospitalization, continuing care

by a physician, or results from a pregnancy.

C) The employer advises the employee of its determination of whether the leave qualifies as FML by using the form entitled “Employer Notification to Employee Regarding FMLA Qualifying Time Off” (Form WH-381), available here.

401.1.9 Use of Other Leave:

Any paid time off must be used concurrently with FML leave.

Procedure:

A) In the event of an employee’s own serious health condition, the employee must apply all unused sick leave to FML. Once sick leave is exhausted, an employee may apply for short term disability, if eligible.

B) If caring for the serious illness of a family member and in possession of both sick and vacation/annual leave, the employee may elect which form of paid leave will run concurrently with the employee’s FML leave.

C) If an employee does not have paid leave to use concurrently with FML, the employee’s leave will be unpaid.

D) The combination of paid and unpaid leave may not exceed 12 weeks under FML (or 26 weeks in the case of FML to care for a covered service member).

401.1.10 Continuation of Medical and Other Benefits:

During approved FML, medical, dental, group life insurance, short-term disability, long-term disability, and pension benefits shall be continued.

Procedure:

A) If the employee contributes a portion of the premium charges to any Archdiocesan benefits plan, the employee must continue to contribute to the plan to maintain benefits.

B) If the premium changes during leave time or if there is a change in the benefits plans, the Archdiocese or parish/school will notify the employee of the change.

C) If the employee fails to make contributions, the benefits will cease.

401.1.11 Calculating 12-Month Leave Period:

The twelve month leave period begins the first day an employee uses FML; therefore, the 12 month period differs for each employee.

1. Employee A begins FML on January 5, 2014 and uses six of the twelve weeks allotted under FML. Employee A is entitled to an additional six weeks which may be used by January 4, 2015. If Employee A does not use any more FML after the initial six weeks, effective January 5, 2015, Employee A is entitled to twelve weeks of FML.

2. Employee B begins FML on February 1, 2014 and uses twelve consecutive weeks allotted under FML. Employee B is not entitled to further FML until February 1, 2015.

401.1.12 Reinstatement:

Generally, an employee shall be assigned to the same or equivalent position upon return to work.

Procedure:
If an employee may not be reinstated to the same position, Human Resources shall be contacted to discuss reinstatement of the employee.

401.1.13 Outside Employment Prohibited:

During FML, outside employment is prohibited unless prior written approval is obtained from the pastor, principal, or Division of Human Resources (for Central Services employees).

401.2 MEDICAL CERTIFICATIONS AND FITNESS FOR DUTY REPORTS

401.2.1 Medical Certifications:

If leave is for the employee's own health condition or covered family member's serious health condition, medical certification from an appropriate health care provider shall be provided to the parish/school or Human Resources (for Central Services employees) within 30 days of the request for leave. The employee shall be asked to return a "Certification of Health Care Provider" (form WH-380), available here.

401.2.2 Failure to Provide Medical Certification:

Failure to provide a requested medical certification in a timely manner may result in denial of FML leave until the certification is provided.

401.2.3 Second and Third Opinions with Approval of Human Resources:

The parish/school or Human Resources (for Central Services employees), at its expense, may require an examination by a second health care provider designated by the parish/school or Human Resources, if it reasonably doubts the validity of the medical certification initially provided. If the second health care provider's opinion conflicts with the original medical certification, the parish/school or Human Resources, at its expense, may require a third mutually agreeable health care provider to conduct an examination and provide a final and binding opinion.

401.2.4 Confidentiality of Medical Certifications:

All FML records or documents containing medical information shall be maintained as confidential medical records under lock and key in files separate from regular personnel files.

401.2.5 Fitness for Duty Reports:

In the case of the employee's own serious health condition, an employee must submit certification from the employee's health care provider that the

employee is fit to return to work.

401.3 SPECIAL RULES FOR SCHOOLS

These provisions are intended to assure minimum disruption in the classroom.

401.3.1 Applicability:

These special rules for schools apply only to instructional staff of elementary and secondary schools, including teachers, athletic coaches, driving instructors, and special education assistants (e.g. signers for the hearing impaired). These rules do not apply to auxiliary personnel such as: teacher assistants or aides whose primary work is non-instructional, counselors, psychologists, curriculum specialist, cafeteria workers, maintenance workers, or bus drivers. Special rules do not apply to preschools.

401.3.2 Limits on Intermittent or Reduced Leave:

The special rules affect the taking of intermittent or reduced leave or leave taken near the end of an academic term by instructional employees as follows:

Intermittent or reduced leave (for the employee's own health or that of a family member)

When intermittent or reduced leave takes instructional staff away for more than 20% of the total working days over the period requested, the employer may require the employee to:

Take leave for a period or periods of a particular duration; or

Transfer temporarily to an equivalent position.

End of academic term leave

An employer may extend leave to the end of the academic term for the employee's own serious health condition if leave begins:

More than five weeks before the end of the term;

Will last at least three weeks; and

the employee would return during the last three weeks of the term.

An employer may extend leave to the end of the academic term for reasons other than the employee’s own serious health condition if leave begins:

A.) During the five weeks before the end of a term;
Will last at least two weeks; and The employee would return during the last two weeks of the term; or

B.) During the three weeks before the end of a term; and
The leave will last more than five days.