

Reference: HUMAN RESOURCES
Section: EMPLOYMENT PRACTICE
Title: FAMILY AND MEDICAL LEAVES OF ABSENCE
Policy Number: 04-02-14
Issue Date: 05-12-2009
Revision Date: 05-11-2021

I. PURPOSE

The purpose of this policy is to ensure the compliance by the Niagara Frontier Transportation Authority and the Niagara Frontier Transit Metro System, Inc. (collectively referred to as “NFTA” or “Authority”) with the Family and Medical Leave Act of 1993 (FMLA), as amended.

II. POLICY

All Authority employees who have been employed by the Authority for at least twelve (12) months, and who have worked at least One Thousand, Two Hundred and Fifty (1,250) hours during the twelve-month period immediately prior to the period in question, may take up to twelve (12) work weeks of unpaid, job protected leave during any twelve-month period for parental or medical care, for one or more of the following reasons:

1. The birth of a child, or the placement of a child with the employee for adoption or foster care, and to care for such child. An employee's ability to take leave for this reason expires twelve (12) months from the date of the child's birth or placement with the employee. Leave under this provision may not be taken on an intermittent or reduced leave schedule unless this schedule is agreed to by both the Authority and the employee.
2. The care of the employee's child, spouse, or parent who has a “serious health condition”. Leave under this provision can be taken on an intermittent or reduced leave schedule in increments as short as one hour, when medically necessary. If leave is taken on an intermittent or reduced leave schedule, the total amount of leave an employee is entitled to shall not be reduced by any amount beyond what is actually taken.
3. The employee's own “serious health condition”, if such condition makes the employee unable to perform the functions of his or her position. Leave under this provision can also be taken on an intermittent or reduced leave schedule in increments as short as one hour, when medically necessary. If leave is taken on an intermittent or reduced leave schedule, the total amount of leave an employee is entitled to shall not be reduced by any amount beyond what is actually taken.
4. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, 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 contingency operation.
5. To care for a covered Servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the Servicemember. An employee using leave to care for a covered Servicemember is entitled to up to twenty-six (26) work weeks of unpaid, job-protected leave during a single twelve-month period.

A “serious health condition” is defined as an illness, injury, impairment, or physical or mental condition which involves either inpatient care or continuing treatment by a health care provider.

An employee must provide their immediate supervisor with thirty (30) days' prior written notice of the employee's intention to take a leave of absence, when the need for a leave is foreseeable. When it is not feasible to provide advance notice, such notice must be provided as soon as practicable, usually within one or two business days of when the employee learns of the need for the leave.

When leave is requested under (2) or (3) above, the request must be supported by a certification issued by the health care provider of the person with the "serious health condition". The certification must state the date of onset of the serious health condition, its probable duration, and the appropriate medical facts relating to the condition which are within the health care provider's knowledge. If the leave is to care for a family member, the certification must also state that the employee is needed to provide such care and should estimate the amount of time the employee is needed. If the leave is for the employee's own serious health condition, the certification must state that the employee is unable to perform the functions of his or her position.

When intermittent or reduced schedule leave is requested based upon planned medical treatments, the health care provider's certification must state the expected dates and durations of such treatments. If this leave is for an employee's own health condition, the certification must include a statement of the medical necessity for the intermittent or reduced leave schedule and its expected duration.

If an employee's spouse is also employed by the Authority, the leave provided for in number (1) above, or leave to care for a sick parent under (2) above, is limited to an aggregate total of twelve (12) work weeks during any twelve (12) month period. Each spouse can receive up to twelve (12) weeks of individual leave for other purposes, such as caring for a sick child.

When leave is requested under (4) above, the request must be supported by a certification of the covered military member's active duty status or impending call to active duty. Documentation of the specific need for leave is also necessary.

When leave is requested under (5) above, the request must be supported by a certification by an authorized health care provider of the covered Servicemember. The certification must include documentation of the covered Servicemember's active duty status, the approximate date on which the serious injury or illness commenced, and its probable duration, the medical facts regarding the covered Servicemember's health condition for which FMLA is requested; information sufficient to establish that the covered Servicemember is in need of care, and an estimate of the beginning and ending dates that care is needed.

An employee may use paid sick time to compensate for leave time taken as the result of the employee's own "serious health condition". Accrued vacation or personal leave time may be taken to compensate an employee for leave taken under provisions (1), (2), (3), (4), or (5) above, subject to the terms of the employee's collective bargaining agreement, where applicable.

After an employee's leave has begun, the Authority may require the employee to obtain and submit recertifications on a reasonable basis. The employee may also be required to report periodically on their status and intention to return to work.

At the end of a leave taken for an employee's own serious health condition, the employee must submit a certificate from their health care provider which states that the employee is able to return to work, and specifically that the employee can perform all of the functions of their position.

An employee who takes a leave of absence under any of the provisions listed above shall retain all benefits and seniority that were accrued prior to the leave, however the employee shall not accrue additional benefits during the leave period. During the period of leave, the Authority will continue to provide the same health insurance benefits for an employee that they would have received if still working. Upon the employee's return to work, the employee shall be restored to their original position, or to an equivalent position with equivalent benefits, pay and all other terms and conditions of employment.