

FAMILY & MEDICAL LEAVE ACT * INFORMATION & FACT SHEET

for employee to keep for their records

The FMLA entitles eligible employees to take *up to 12 weeks* of job-protected leave in a 12-month period for specified family and medical reasons. For District purposes, a 12-month period is defined as a school calendar year, from July 1st to June 30th. **Employees are required to use accrued leave time during FMLA leave. Paid leave days and FMLA leave run concurrent.**

The federal law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and protection for employees who request or take FMLA leave. This fact sheet does not include the entire text of the law and is intended to highlight the major provisions of the FMLA. Additional information is available by calling [Human Resources @ \(716\) 375-8032](tel:7163758032).

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee must:

- Have worked for Olean City School District for a total of at least 12 months; and have worked at least 1,250 hours over the previous 12 months.

LEAVE ENTITLEMENT

Employers must grant an eligible employee *up to 12 weeks* of leave during any 12-month period.

Total amount of leave time *up to 12 weeks* during any 12-month period is as designated by employee's health care professional.

FMLA leave is granted for one or more of the following reasons:

- For the birth and care of the newborn child of the employee;
- For placement with the employee of a child for adoption or foster care;
- To care for a **qualified** immediate family member (spouse, child under 18, or parent) with a serious health condition;
- To take medical leave when the employee is unable to work because of a serious health condition.
- A qualifying exigency arising out of employee's covered military member (spouse/son/daughter/parent) on active duty or call to active duty) in support of a contingency.
- To care for a covered service member (spouse/son/daughter/parent/next of kin) with a serious injury or illness

Spouses employed by the same employer are limited to a combined total of 12 weeks of family leave for the birth and care of a child, or placement of a child for adoption or foster care.

Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule. When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

The employer is responsible for designating leaves as FMLA leave, based on Federal requirements.

"Serious health condition" (*detailed definitions on reverse*) 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; and any period of incapacity or subsequent treatment in connection with such inpatient care; or
- **Continuing treatment** by a health care provider which includes any period of incapacity (inability to work, attend school, or perform other regular daily activities); or
- **Absence for a period of more than three (3) consecutive calendar days** and prescribed medication from a health care professional.

MAINTENANCE OF HEALTH BENEFITS

Employers are required to maintain group health insurance coverage for an employee on FMLA leave provided such insurance was in effect with that employee before the leave was taken and on the same terms as if the employee had continued to work. If applicable, employees must make arrangements to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

JOB RESTORATION

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

NOTICE AND CERTIFICATION

Employees are required to provide a 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable.

Employees are required to provide a medical certification completed by the health care provider of the employee or the employee's family member supporting the need for leave due to a serious health condition.

OTHER PROVISIONS

The FMLA does not supersede any collective bargaining agreement that provides greater family or medical leave rights.

“Serious Health Condition” (as defined for FMLA)

means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. **Hospital Care:** Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care.
2. **Absence Plus Treatment:** A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) of more than three consecutive full calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves one of the following:
 - a. In-Person Treatment two or more times within 30 days of first day of incapacity, by a health care provider, by a nurse under direct supervision of a health care provider or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 - b. In-Person Treatment on at least one occasion by a health care provider which results in a regimen of continuing treatment (e.g. prescription medication) under the supervision of the health care provider.

First (or only) in-person treatment for a. or b. above must be within seven days of first day of incapacity.

3. **Pregnancy:** Any period of incapacity due to pregnancy, or for prenatal care.
4. **Chronic Conditions Requiring Treatments:** A chronic condition which:
 - a. Requires periodic visits (at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
5. **Permanent or Long-term Conditions:** A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.
6. **Conditions requiring Multiple Treatments:** Any period of absence to receive multiple treatments including any period of recovery therefore by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for (1) restorative surgery after an accident or other injury; or (2) a condition that would likely result in a period of incapacity of more than three consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

Definitions:

INCAPACITY means inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefore.

HEALTH CARE PROVIDER means a doctor of medicine or osteopathy; podiatrists, dentists, clinical psychologists, optometrists and chiropractors; nurse practitioners, nurse-midwives, clinical social workers and physician assistants.

TREATMENT includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

A regimen of **CONTINUING TREATMENT** includes, for example, a course of prescription medicine (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.