

## **Family & Medical Leave Act (FMLA)**

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### **General Provisions**

It is the policy of the Atlanta Research and Education Foundation (AREF) to grant up to 12 weeks of family and medical leave during a 12 month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

An eligible employee can take up to 12 weeks of family leave or up to 26 weeks of servicemember family leave (defined below) under this policy during a 12 month period. AREF will measure the 12 month period backward from the date an employee requests FMLA leave to begin, on a rolling calendar year basis. For example, if an employee requests 12 weeks of FMLA leave beginning October 16, 2009, we would look at any FMLA time used since October 16, 2008. If in the past 12 rolling months the employee had used 6 weeks of FMLA, at this point in time they would only be eligible for 6 additional weeks of FMLA.

### **Eligibility**

In order to qualify to take family and medical leave under this policy, both of the following conditions must be met:

- The employee must have been employed by AREF for at least 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive.
- The employee must have worked at least 1250 hours during the 12 month period immediately before the date when the leave would begin.

### **Type of Leave Covered**

In order to qualify as FMLA leave under this policy, the employee must be using the leave for one of the following reasons:

- the birth of a child and in order to care for that child;
- the placement of a child for adoption or foster care;
- to care for a spouse, child, or parent (not in-laws) with a serious health condition; or
- the inability of the employee to perform the functions of the employee's position due to a serious health condition.

A serious health condition is defined as an illness, injury, impairment or physical or mental condition that involves:

- any period of incapacity or treatment in connection with or a consequence of inpatient care in a hospital, hospice or residential medical care facility; or
- any period of incapacity requiring absence from work or other regular daily activities for more than three (3) consecutive calendar days that also involves:
  - continuous treatment by or under the supervision of a healthcare provider; or
  - continuous treatment by or under the supervision of a healthcare provider for a chronic long-term health condition that is incurable or so serious that if not treated would result in a period of incapacity of more than three (3) consecutive calendar days; or
  - prenatal care.

AREF may require an employee to provide a doctor's certification of a serious health condition.

### **FMLA Provisions for Child Care**

If AREF employs both parents and each wish to take leave for the birth of a child, adoption or placement of a child for foster care, they are together entitled to a combined total of 12 weeks of leave.

Leave granted for the birth of a child, or placement of a child for adoption or foster care must not extend beyond a 12 month period beginning from the date of the event.

### **Servicemember Family and Medical Leave Act (FMLA)**

Servicemember FMLA provides eligible employees paid, unpaid, or a combination of paid and unpaid leave for any one, or for a combination, of the following reasons:

- A "qualifying exigency" arising out of a spouse, son, daughter or parent's active duty or call to active duty in the Armed Forces in support of a contingency operation; and/or
- To care for a spouse, child, parent or other relative for whom the employee is the next of kin who is a member of the Armed Forces, including 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 list for a serious injury or illness.

### **Duration of Servicemember Family & Medical Leave**

- When leave is due to a "qualifying exigency": An eligible employee may take up to 12 workweeks of leave during any 12 month period.
- When leave is to care for an injured or ill servicemember: An eligible employee may take up to 26 workweeks of leave during a single 12 month period to care for the servicemember.
- Servicemember FMLA runs concurrent with other leave entitlements provided under federal, state and local law. If an employee is eligible for leave to care for a servicemember as well as another FMLA-eligible reason, the total combined leave may not exceed 26 weeks during that single 12 month period.

Any leave request due to a qualifying exigency must be supported by certification showing that the servicemember is on, or has been called to, active duty.

Any questions regarding servicemember FMLA leave should be directed to Human Resources.

### **Use of Accrued Annual and Sick Leave**

The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

FMLA and paid leave run concurrently, not in addition to one another (i.e., taking annual and sick leave at the beginning of FMLA leave does not extend the 12 weeks of FMLA leave by the length of the annual/sick leave).

An employee who is taking leave because of their own serious health condition or to give birth to a child shall exhaust any accrued sick and annual leave prior to being eligible for unpaid leave.

An employee who is taking leave for the birth, adoption, or foster care of a child, or to care for a seriously ill spouse, child, or parent must use all accrued sick and annual leave prior to being eligible for unpaid leave.

### **Holiday Pay Eligibility During Leave**

An employee must be present at work the day before or the day after a holiday period to receive holiday pay while on approved Family and Medical Leave.

### **Employee Benefits During Leave**

An employee may continue medical, dental and vision benefits under the same conditions and at the same cost as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition, AREF will require the employee to reimburse the Foundation the amount it paid for the employee's health insurance during the leave.

Employees whose FMLA leave runs concurrently with the use of paid leave time will continue to have individual premiums paid by the Foundation. However, family benefit premiums, if applicable, will continue to be deducted from the employee's pay as if the employee were still working. Benefit premiums due during unpaid FMLA leave time will be invoiced to the employee. Employees choosing not to retain medical and or dental coverage during FMLA leave will have their benefits reinstated on the same terms as prior to taking the leave without any qualifying period.

### **Failure to Make Timely Health Insurance Premium Payments**

If an employee fails to pay health insurance premiums within 30 days of invoice date, the employee's health insurance coverage and any family coverage, if applicable, will be terminated retroactively to the date that the premium was due. Upon the employee's return from FMLA leave all health insurance coverage will be reinstated on the same terms as prior to taking the leave without any qualifying period.

### **Employee Status After Leave**

An employee who takes a leave under this policy will be returned to the same or an equivalent position with the same benefits and terms of employment.

### **Certification of the Serious Health Condition**

AREF may ask that the employee provide certification of the serious health condition to the AREF HR Manager. Certification must be provided by a qualified, licensed physician, as determined by the state of Georgia. Failure to provide certification may result in a denial of the leave.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.

AREF, at its own expense, has the right to ask for a second opinion. If it becomes necessary to resolve a conflict between the original and the second opinion, AREF, at its own expense, may require the opinion of a third doctor. This third opinion will be considered final.

### **Return to Work Intent**

AREF may require an employee on FMLA leave to periodically report his/her status and the intention of the employee to return to work, and may also require recertification of the medical condition. An employee taking leave due to the employee's own serious health

condition is required to obtain certification that the employee is able to resume work prior to the return from any FMLA leave. Employees who return to work from a family leave of absence within or on the business day following the expiration of the 12 weeks are entitled to return to their job or an equivalent position without loss of benefits or pay.

#### **Procedure for Requesting FMLA Leave**

Except where leave is not foreseeable, all employees requesting leave under this policy must submit the request in writing to the AREF HR Manager 30 days prior to the commencement of leave. The dates of leave must be included in the notice.

If it is not possible to give 30 days notice, the employee must give as much notice as is feasible.

An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to Foundation operations. If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date AREF receives notice.

FMLA leave may be taken intermittently under some circumstances. This will be determined on a case-by-case basis, relative to the employee's normal workweek. This must be arranged with the immediate supervisor and AREF Human Resources.

AREF will not retaliate against any employee for requesting Family Medical Leave regardless of whether or not the leave is granted.

This policy is administered in accordance with the Family & Medical Leave Act, the regulations interpreting it and any applicable state law.

Any questions regarding FMLA leave eligibility and benefits should be directed to Human Resources.