



Anchorage School District

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Benefits Department

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ASD LEAVE RIGHTS AND RESPONSIBILITIES

The Anchorage School District is committed to providing employees with leave in compliance with the policies, bargaining agreements and laws that govern the Anchorage School District. This includes the **Federal Family Medical Leave Act** and the **Alaska Family Leave Act**, as applicable. Both laws provide employer options for implementation of leave. This document applies to all district employees regardless of their bargaining unit. All employees are responsible for reviewing this document.

I. LEAVE CONDITIONS AND PROHIBITIONS :

- A. Leave abuse is not tolerated by the Anchorage School District and will result in disciplinary action. This may include termination of employment.
- B. All District employees are responsible for following these rights and responsibilities when accessing the following kinds of leave:
 - Sick
 - LWOP
 - FMLA/AFLA
 - Extended Leave
 - Worker's Comp
- C. It is expected that employees on leave due to sickness, injury or a serious health condition will remain at their homes during work hours unless securing treatment, attending to ordinary and necessary personal or family needs, or upon prior approval from their supervisor.
- D. Employees who take a vacation while on leave due to sickness, injury or a serious health condition of the employee or family member, or who travel outside of the District during work periods for any purpose other than for medically prescribed reasons documented by a health care provider in advance of the travel, are subject to termination. Exceptions may be granted at the discretion of the Senior Director, Benefits upon written request of the employee made in advance of travel.
- E. The need for out of state travel for treatment must be verified by the employee's health care provider.
- F. Employees who are on approved leave are prohibited from engaging in other employment during the dates the employee is on leave from the District. Exceptions may be granted at the discretion of the Chief Human Resources Officer upon written request of the employee in advance of the employment. The written request must explain why the employee seeks to engage in work for another employer or entity, and why such work is

feasible when the employee is unable to work for the District.

- G. Employees who are on leave may not participate in any ASD work-related activity. This includes but is not limited to, trainings, coaching, staff meetings, parent conferences/meeting, working in classrooms, attending, or participating in assemblies and other special school activities.

- II. THE FAMILY AND MEDICAL LEAVE ACT (FMLA)** requires the District to provide up to 12 weeks of unpaid leave in a 12-month period to eligible employees for qualifying family and medical reasons. Employees are eligible if they have worked for the District for at least one year, and for 1,250 hours over the previous 12 months. For purposes of total leave availability, the Anchorage School District utilizes a rolling 12-month period measured backward from the date an employee uses any FMLA/AFLA leave. Unused FMLA/AFLA leave does not accumulate from year to year.
- III. THE ALASKA FAMILY LEAVE ACT (AFLA)** requires the District to provide up to 18 weeks of unpaid leave during a 24-month period to eligible employees because of a serious health condition of the employee or qualifying family member. AFLA provides a total of 18 weeks of unpaid leave during a 12-month period because of pregnancy, childbirth, or adoption. Employees are eligible if they have worked for the District for at least 35 hours a week in the last six consecutive months, or for at least 17.5 hours a week for the last 12 consecutive months immediately preceding the leave. In the event an employee is eligible for leave under AFLA only, and AFLA does not contain specific requirements for implementation of that leave, the District adopts and utilizes the procedures, rights, and responsibilities set forth in FMLA.

Eligibility for FMLA and/or AFLA is based solely on eligibility criteria as established by these laws. This document does not extend eligibility beyond legal requirements. When an employee is absent for more than five (5) consecutive calendar days OR if the employee requires intermittent or reduced schedule leave for the foreseeable future, the employee may be referred to the Benefits Department for FMLA and/or AFLA eligibility.

- IV. MILITARY FAMILY LEAVE (MFL)** is provided by FMLA in two situations. First, an employee meeting FMLA eligibility requirement may take up to 12 weeks of FMLA leave in a 12-month period for any “qualifying exigency” of a military member who is on covered active duty and is a qualified family member. Second, an employee meeting FMLA eligibility requirements may take up to 26 weeks of leave in a 12-month period to care for a covered service-member who is a qualified family member recovering from a serious illness or injury sustained in the line of duty while on active duty. More information about Military Family Leave can be obtained from the Benefits Department. The District utilizes the U.S. Department of Labor forms for Certification of Military Family Leave.
- V. QUALIFYING REASONS FOR TAKING FAMILY AND MEDICAL LEAVE:** Employees who meet the eligibility requirements described above are eligible to take leave for any of the following reasons:
- a. To care for the employee's infant during the first 12 months following birth;
 - b. To care for a child during the first 12 months following the employee’s adoption of the child or foster care placement of the child with the employee;
 - c. To care for a spouse, child, or parent with a serious health condition;

- d. Because of the employee's own serious health condition; or
- e. For an employee whose family member is a military member who has a qualifying exigency or a serious illness or injury.

VI. EMPLOYEE RESPONSIBILITIES:

A. Notice and Scheduling of Leave:

- i. If the need for leave is foreseeable, the employee must provide the Anchorage School District at least a 30-day advance notice before the leave is to begin. If the employee fails to provide proper notification, the start of leave may be delayed.
- ii. When a 30-day notice is not possible, the employee must provide notice as soon as reasonably possible. **This means within 1 or 2 business days of learning of the need for leave, except in extraordinary circumstances.**
- iii. Employees may be asked why providing a 30-day notice was not possible and employees must cooperate with such an inquiry.
- iv. When scheduling planned medical treatment, the employee must consult with the District and make a reasonable effort to schedule the treatment so as not to unduly disrupt the District's operations, subject to the approval of the health care provider of the employee or the employee's child, spouse, or parent. Employees should attempt to schedule medical treatment around work so as to permit employees to work as much of their workday as possible.
- v. If an employee neglects to consult with the District to make a reasonable effort to arrange the schedule of treatment so as not to unduly interrupt District operations, the District may initiate such discussions and require the employee to attempt to make such arrangements, subject to health care provider approval.
- vi. Employees who are required to report to a principal and a department supervisor, are required to give notice of leave to both parties.

B. Application and Doctor's Certification:

- i. The employee must apply by submitting a request in EmpCenter.
- ii. When applying for leave, the employee must provide sufficient information for the District to determine if the leave might qualify as FMLA/AFLA leave. The employee must also provide information on the anticipated date when the leave will start as well as the duration of the leave.
- iii. At the employee's expense, the employee must provide a Health Care Provider Certification for leave requested for the employee's own serious health condition or that of a qualifying family member. The requirement for medical certification must generally be met no later than 15 days from when the District advises the employee that certification is required. If the employee has at least 30 days' notice of medical leave, medical certification should be provided at the time of the initial request and before leave begins.

- iv. The employee must scan and email the required certifications to the Benefits Generalist, Leave Management. If the certification is not received, or is not received in a timely manner, coverage under the family leave acts may be denied or delayed.
- v. The District may also require subsequent medical recertification. Recertification is at the employee's expense. Recertification will not be more often than every 30 days, unless earlier recertification is appropriate because the employee has requested a leave extension; the circumstances described in the original certification have changed significantly; or the District has received information that casts doubt on the employee's stated reason for the absence or the continuing validity of the certification. Failure to provide requested recertification within 15 days, except in extraordinary circumstances, may result in the delay of further leave until the recertification is provided. For employees on intermittent leave, the District may require recertification every six (6) months.
- vi. The District, at its expense, may require an examination by a second healthcare provider designated by the District, if it reasonably doubts the medical certification initially provided. If the second healthcare provider's opinion conflicts with the original medical certification, the District, at its expense, may require a third, mutually agreeable, healthcare provider to conduct an examination and provide a final and binding opinion.

C. Leave Designation

- i. Within five (5) business days, the District will designate leave as FMLA and/or AFLA qualifying based on the information received from the employee, assuming that information is sufficient. The employee must cooperate with follow-up inquiries by the District when the information submitted by the employee is insufficient to determine whether the leave qualifies under FMLA/AFLA.
- ii. The District will designate all qualifying leaves as FMLA or AFLA leave, even if the employee has not made a family and medical leave request, for example, when requesting sick leave, requesting annual leave to care for a sick family member, or taking workers' compensation leave. Any leave for a serious health condition of more than five (5) days may qualify for FMLA/AFLA leave.
- iii. All leave designated as family leave will be counted against the employee's family leave entitlements.
- iv. If the District fails to timely designate qualifying FMLA/AFLA leave, it may retroactively do so upon notice to the employee. The District will not retroactively designate leave as qualifying under the family leave laws when doing so would harm or injure the employee.

D. Status Reporting While on Leave:

- i. If an employee takes leave because of the employee's own serious health condition or to care for a covered family member, it is the employee's responsibility to keep the District informed regarding the status of the leave and intent to return to work. In addition, the employee must give notice as soon as practicable (within 2 business days, if feasible) if the dates of the leave change, are extended, or were unknown initially.

- ii. The employee must follow the District's leave notification requirements including established call-in procedures.

E. Returning To Work:

- i. Employees must return to work as specified in the original Health Care Provider Certification or provide an updated certification.
- ii. If medical limitations/restrictions are necessary when the employee returns to work, the employee is required to provide a **Return to Work Medical Release Form** to their supervisor before returning to work.
- iii. Once released to work, the Principal/Supervisor will review the employee's limitations/restrictions, if any, and begin the ADA interactive process to determine if the employee's limitations/restrictions can be reasonably accommodated. Principals/Supervisors and employees may consult with the District's Office of Equity and Compliance when working through the ADA interactive process.
- iv. An employee who fails to return to work as indicated will be required to reimburse the Anchorage School District's portion of the health insurance cost for the period of time the employee was on family leave, UNLESS the employee does not return due to circumstances beyond the employee's control; or, the continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member that would otherwise entitle the employee to FMLA/AFLA leave.

VII. **DEFINITIONS:** For purposes of the above:

- a. **"Child"** means the employee's biological child, adopted child, stepchild, foster child, or legal ward, so long as the child is under the age of 18 or, if 18 or older, is incapable of self-care because of a mental or physical disability. Under AFLA, "child" does not include stepchild for purposes of caring for the child following adoption.
- b. **"Parent"** under AFLA means a biological or adoptive parent, parent-in-law, or stepparent. "Parent" under FMLA means biological, adoptive, step or foster parent, or any other individual who stood "in loco parentis" (in the role of a parent) to the employee when the employee was a child; it does not include parent-in-law.
- c. **"Spouse"** means a person to whom the employee is legally married. It may also include a common law spouse if common law marriage is recognized in the state where the marriage took place and the individuals qualified as common law spouses before leaving that state.
- d. **"Serious Health Condition"** means an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. Conditions for which cosmetic treatments are administered (such as treatments for acne or plastic surgery) are not serious health conditions unless inpatient hospital care is required or unless complications develop. Restorative dental or plastic surgery after an injury or illness may be serious health conditions.

The Anchorage School District will administer FMLA and AFLA leave in compliance with definitions found in those laws, which may be more descriptive or explanatory than the general definitions

provided above.

VIII. FAMILY MEDICAL LEAVE COORDINATION: An employee's FMLA and AFLA leaves run concurrently with each other, with workers' compensation, and with other types of paid leave. The substitution of paid leave for unpaid leave does not extend the maximum FMLA/AFLA leave period.

IX. PAY, BENEFITS, AND JOB PROTECTIONS DURING FMLA/AFLA LEAVE:

A. PAY:

- FMLA/AFLA is unpaid leave.
- While on leave, employees may be eligible for sick leave, annual leave and/or workers' compensation benefits, if leave is taken because of an employee's own serious health condition.
- The Anchorage School District requires employees to substitute accrued paid leave for unpaid FMLA and AFLA leave, UNLESS the negotiated agreement provides other options or restrictions.
- For pay or leave balance related questions, please contact Payroll at (907) 742-4103 or visit the website @ <http://www.asdk12.org/payroll/>.

B. BENEFITS:

- For the duration of approved FMLA/AFLA leave, the employee's health coverage will be maintained under any group plan as if the employee continued to be actively working.
- The employee remains responsible for the employee's share of the health plan cost. During any portion of leave where accrued paid leave is being substituted, the health plan cost share will be deducted from the employee's pay, as usual.
- If an employee is eligible for AFLA leave only, or if the employee qualifies for both FMLA and AFLA and FMLA leave has been exhausted, the District may require that the employee pay the full costs of health plan coverage as a condition of maintaining those benefits during any period of *unpaid* AFLA leave.
- During any portion of leave that is unpaid, it is the employee's obligation to contact the Benefits Department at (907) 742-4200 to make arrangements to continue to pay the employee's share of the monthly cost for health insurance. For employee's on the District's medical plan, at the District's option, the District may pay the employee's share of the premium during any unpaid portion of FMLA/AFLA leave and recover those payments from the employee upon his or her return to work.
- The District may cease an employee's healthcare coverage if the employee's share of the health plan payment is more than 30 days late. If the payment is more than 15 days late, the District will first send the employee written notice that payment has not been received and coverage may cease. If the District does not receive the payment within 15 days after the date of that letter, the employee's coverage may cease.
- Use of FMLA/AFLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

C. JOB TRANSFER FOR INTERMITTENT OR REDUCED SCHEDULE LEAVE

- If an employee needs intermittent or reduced schedule leave that is foreseeable based on planned

medical treatment for the employee's or family member's serious health condition, including any period of recovery, or if the District agrees to permit intermittent or reduced schedule leave for the birth, adoption, or foster care placement of a child with the employee, the District may require the employee to transfer temporarily to an alternative position that can better accommodate the recurring periods of leave.

- The period of transfer is temporary and covers the duration that intermittent or reduced schedule leave is required. Upon conclusion of the leave, the employee will be returned to the same or equivalent position held before the leave.
- If the District elects to transfer the employee, the position will be one for which the employee is qualified and which has equivalent pay and benefits. The alternative position does not have to have equivalent duties. The District may increase the pay and benefits of an existing position to make them equivalent to the employee's regular job.

D. **JOB RESTORATION:**

- Upon return from FMLA/AFLA leave, most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The District retains the right to make business decisions and employees on FMLA/AFLA leave have no greater rights to reinstatement or benefits than if they had been continuously employed during the leave period. For example, lay-offs, position elimination, non-retention, and reductions in hours may still occur. Subject to the requirements of the applicable negotiated agreement, the loss of the employee's position may eliminate the right to job restoration, and to continued FMLA leave or benefits, upon the date such employment action is effective.
- The right to job restoration will be lost if an employee fraudulently obtains FMLA/AFLA leave.

X. **INSTRUCTIONAL EMPLOYEES:**

- A. FMLA provides special rules for school districts, including rules applicable to instructional employees only. In cases where the instructional employee rules apply, the District may apply those special rules or the general FMLA rules as best serves the interests of the District.
- B. **"Instructional employees"** are teachers whose principal function is to teach and instruct students in a class, small group, or individual setting. The term does not include administrators, teacher assistants or aides, or positions such as counselors, psychologists or curriculum specialists. It also does not include employees such as cafeteria workers, maintenance workers, or bus drivers.
- C. **Summer months, Winter Closure, and Spring Break.** For all District employees, instructional and non-instructional, whose positions do not work during the period between academic terms (winter closure and summer months), or during periods where ASD has closed schools and/or departments for at least a week (spring break or similar), FMLA leave will only apply to scheduled work days and is not counted over the break. Employees who end the school year on FMLA can continue FMLA at the beginning of the next school year, provided the employee has not used all twelve (12) weeks of their annual FMLA leave.

D. **Medical treatment impacting instructional time:** The District has options to address instructional needs if an instructional employee requires intermittent or reduced schedule leave to care for a family member with a serious health condition, to care for a covered service-member, or for the employee's own serious health condition, the leave is foreseeable based on planned medical treatment, and the leave is more than twenty (20) percent of the total number of working days in the period over which the leave would extend. In such a case, the District may require the employee to take the entire period of leave in a block, not to exceed the duration of the planned treatment. Alternatively, the District may transfer the employee to an alternative position, with equivalent pay and benefits, which can better accommodate the intermittent leave. The alternative placement is for the period of planned leave. This decision is at the discretion of the District.

E. **Leave towards the end of the school term:** The following options are available to the District in cases where instructional employees are on FMLA leave towards the end of the school term but are available to return to work before the term has ended. **"Term"** means the fall or spring semester.

- If an instructional employee begins FMLA leave more than five (5) weeks before the end of the term, the leave lasts at least three (3) weeks, and the employee would return during the three (3) week period before the end of the term, the District may require the employee to remain on leave for the remainder of the school term.
- If an instructional employee begins FMLA leave five (5) weeks or less before the end of the term, the leave is for a qualifying reason other than the employee's own serious health condition, and the leave will last more than two (2) weeks, the District may require the employee to remain on leave for the remainder of the school term.
- If an instructional employee begins FMLA leave with three (3) weeks or less before the end of the term, the leave is for a qualifying reason other than the employee's own serious health condition, and the leave will last more than five (5) working days, the District may require the employee to remain on leave for the remainder of the school term.
- In the cases above where the District has exercised its right to extend the leave time, the leave is unpaid but is not charged against the employee's annual FMLA entitlement.

XI. WHAT HAPPENS WHEN BOTH SPOUSES ARE EMPLOYED BY ANCHORAGE SCHOOL DISTRICT?

- Special rules apply to spouses who are employed by the District.
- Under FMLA, two spouses together may take a combined total of 12 weeks of leave during any 12-month period for birth of their child; to care for the child after birth, adoption, or foster care placement; or to care for an employee's parent with a serious health condition.
- Under AFLA, the District is not required to grant simultaneous leave to both spouses to care for a parent or child with a serious health condition.
- Under FMLA's Military Family Leave, the combined total of leave taken by spouses to

care for a covered service-member is 26 weeks during any 12-month period.

XII. UNLAWFUL ACTS BY EMPLOYERS: The Family Leave Acts makes it unlawful for the District to:

- Interfere with, restrain, or deny the exercise of any right provided under the Acts.
- Discharge or discriminate against any person for opposing any practice made unlawful by the Acts or for involvement in any proceeding under or relating to the Acts.

Employees who believe their rights under FMLA or AFLA have been violated are encouraged to bring this to the attention of the Senior Director, Benefits for investigation and resolution. Any employee may file a complaint with the U.S. Department of Labor for violations of FMLA, or the Alaska Department of Labor for violations of AFLA. An eligible employee may bring a civil action against an employer for violations.

XIII. APPLICATION CHECKLIST: Check all that apply to your situation. All applicable forms must be fully completed, signed and submitted to the Benefits Generalist, Leave Management, or your eligibility determination will be delayed. Knowingly providing false information directly, or through another party, is grounds for disciplinary action. To request FMLA/AFLA do the following:

_____ **Submit FMLA/AFLA Request in EmpCenter.**

_____ **Inform Supervisor you have submitted FMLA/AFLA request.**

_____ **Email copies of the following documents to the Benefits Generalist for Leave.**

- *Certification of Health Care Provider for Employee's Serious Health Condition*
OR,
- *Certification of Health Care Provider for Family Member's Serious Health Condition*
- *Adoption Placement Documents (if applicable)*
- *Military orders (if applicable)*
- *Work Calendar (if applicable)*

_____ **Confirm leave is accurately recorded in EmpCenter.**

- Biweekly employees can review this on the Results tab only

_____ **Enter absence in Absence Management, if applicable.** If you are in the AEA union, when submitting job in Absence Management, use FMLA as the reason code.

For more information or assistance, contact the Benefits Department:

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