

Family Medical Leave Act (FMLA)

NAF Personnel Program Management and Administration Procedures Guide, dated June 2019, paragraph 14.16., summarized.

- An employee is entitled to a total of 12 administrative workweeks of unpaid leave during a 12-month period for certain family and medical needs
- FMLA applies to all NAF employees, Regular and Flexible, who are otherwise eligible
 - An employee must have completed 12 months of service (not required to be recent or consecutive)
 - Employees serving in Flexible appointments with a state time limitation or “not to exceed” date of one year or less are subject to the provision of Title I of the FMLA. Title I is regulated by the Department of Labor (DOL)
- Leave Entitlement
 - Birth of a son or daughter and care of the newborn and the care of such son or daughter
 - Placement of a son or daughter with the employee for adoption or foster care
 - Care of a spouse, son, daughter, or parent of the employee with a serious health condition
 - Serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position
 - Qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (been notified of an impending call or order to covered active duty) in the Armed Forces.
 - Federal employees are entitled to use FMLA leave to care for same-sex spouse with a serious health condition (including care for a same-sex spouse who gives birth to a child)
 - Care for same-sex spouse who is covered service member with an injury or illness incurred or aggravated in the line of duty on active duty or for qualifying exigencies while a same sex spouse is covered active duty or has been notified of an impending call or order to covered active duty status.
 - An employee may take up to 12 administrative work weeks of FML necessary for the circumstances that prompted the need for FMLA. This leave may be taken intermittently.
 - An employee may choose to substitute annual leave for unpaid leave under FMLA. Substitution of paid leave for FMLA cannot be done retroactively. An employee may also substitute sick leave in those situations in which the use of sick leave is permitted and made in advance. Advance annual or sick leave and/or leave made available to an employee under the Voluntary Leave Transfer Program (VLTP) may also be available.
- Serious Health Condition
 - Cancer, heart attacks, heart conditions requiring heart bypass or valve operations, back conditions requiring extensive therapy or surgical procedures, kidney dialysis, physical

therapy, strokes, severe injuries, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents on or off the job, clinical depression, recovery from major surgery, final states of a terminal illness, Alzheimer's disease, pregnancy and childbirth

- A serious health condition is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems, etc. are not serious health conditions unless complication arise.
- Effective Date of FMLA. The 12-month period begins on the date an employee first takes leave for a family or medical need and continues for 12-months. An employee is not entitled to 12 additional workweeks of leave until the previous 12 month period ends and an event occurs that entitles the employee to another period of family or medical leave.

- Medical Documentation
 - Employee must provide written medical documentation to document the use of FMLA leave for a serious health condition. Requests are submitted to the approving official on the OF Form 71, Request for Leave or Approved Absence. Employee must provide a 30 calendar day's advance notice of intent of the need for FMLA and may not retroactively invoke his or her entitlement to FMLA
 - Written medical documentation of a serious health condition, signed by a health care provider no later than 15 workdays after the date requested by management
 - Written statement must be provided from the health care provider concerning the family member's need for psychological comfort and/or physical care. The statement must certify that the family member requires psychological comfort and/or physical care, the family member would benefit from the employee's care or presence, and the specific length of time the employee is needed to care for the family member

- Medical Emergency
 - An employee faced with a family medical emergency who has exhausted his or her entitlement to 12 weeks of leave may receive donated annual leave.
 - An employee who is using donated annual leave on the effective date of new sick leave accrual is required to use all of his or her available sick leave for family care purposes before he or she can continue to use donated annual leave

- Childbirth and Newborns.
 - Pregnant employees are entitled to use sick leave or FMLA leave for prenatal and postnatal medical appointments and any periods of incapacitation as a result of pregnancy and childbirth.
 - A biological mother or father cannot use 12 weeks of sick leave to care for a healthy newborn, but only for one with a serious health condition.
 - A parent may use annual leave or FMLA leave to care for a healthy newborn.

- Qualifying Leave for an Exigency. Provides eligible employees up to 12 administrative workweeks of unpaid leave under FMLA for qualifying exigency purposes during a 12-month period. This provision helps employees manage family affairs when their family members are on covered active duty to a foreign country.
 - Spouse, son, daughter, or parent of an employee is on covered active duty in the Armed Forces. Includes a member of a regular component of the Armed Forces during deployment to a foreign country and a member of a reserve component of the Armed Forces during deployment to a foreign country
 - Covered military members means the employee's spouse, son, daughter, or parent. This includes biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis.
- Categories of Qualifying Exigencies
 - Short Notice Deployments
 - Military Events and Related Activities
 - Childcare and School Activities
 - Financial and Legal Arrangements
 - Counseling
 - Rest and Recuperation
 - Post-deployment Activities
 - Additional Activities
 - Qualifying exigency leave may be taken intermittently or on a reduced leave schedule. An employee may elect to substitute annual leave for unpaid FMLA leave consistent with regulations governing use of annual leave. Employees must notify management of his or her intent to substitute annual leave for FMLA LWOP prior to the date the leave starts.
 - Employee is required to provide a copy of the service member's active duty orders and any documentation issued by the military that indicates the covered military member's active duty service. This documentation need only be provided the first time an employee requests leave because of a qualifying exigency.

Parental Leave. Parental leave covers absences for pregnancy and confinement, leave for adoptive parents, and paternity leave. Management should be responsive and compassionate in leave policies for working parents. Requests for such leave should be granted to the extent that normal work requirements permit. Refer to paragraph 14.16

Absence for Maternity Reasons. Absence from duty for reasons related to pregnancy and confinement is charged to sick leave, annual leave or LWOP, depending on the circumstances and availability of each type of leave. The employee is responsible for providing notice substantially in advance of the anticipated leave dates. All sick leave requests are supported by medical documentation showing the employee is incapacitated to perform the duties of his/her position for the period covered by the

certificate. Sick leave is not authorized for absence due solely to the employee's responsibility for care of the infant. Any additional absence not supported by medical documentation is charged to annual leave or LWOP.

Paternity. A male employee may use sick leave, annual leave or LWOP for the purpose of caring for his minor children or the mother of his newborn child during confinement or incapacitation due to complication arising from the delivery. Refer to paragraph 14.2 Annual Leave, 14.3 Sick Leave and 14.4.1., LWOP

Federal Employee Paid Leave Act

- Provides up to 12 weeks of paid parental leave in connection with the birth, adoption or foster care placement of a child for employees covered by the Family and Medical Leave Act (FMLA) provisions applicable to Federal civilian employees
- New law applies to leave taken in connection with a birth or placement occurring **on or after October 1, 2020.**