

YOUR RIGHTS AS A NEBRASKA STATE EMPLOYEE

Under the FAMILY AND MEDICAL LEAVE ACT (FMLA) OF 1993

FMLA requires the State of Nebraska to provide up to 12 weeks of unpaid, job protected leave to “eligible” employees for certain family and medical reasons. The employee may use other paid leaves, such as vacation leave, sick leave, or comp time as part of the 12 weeks if he/she meets the criteria for such leave, has accrued leave or compensatory time, and receives advanced supervisory approval.

ELIGIBILITY FOR FMLA LEAVE: An employee is eligible if he/she has worked for at least one year, has been paid for more than 1250 hours of work over the previous 12 months, and has not used more than 12 weeks of FMLA Leave in the previous 12 months. When an employee and their spouse are both working for the State of Nebraska, each will be eligible for 12 weeks of FMLA Leave, except in the case of a birth, or the adoption or placement of a foster child with the employee in which case they are eligible for a combined total of 12 weeks.

REASONS FOR TAKING LEAVE: FMLA Leave must be granted for the following reasons:

- To care for the employee’s child after birth, or the adoption or placement of a foster child with the employee;
- To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition;
- For a serious health condition that makes the employee unable to perform his/her job;
- For an exigency caused by the call to active duty of a member of the Armed Forces in a foreign country;
- To care for a spouse, child, parent or next of kin who is a service member and is injured or has become seriously ill while on active duty or within five years of leaving the armed forces if related to an injury or illness suffered while on active duty, or aggravated while on active duty (up to 26 weeks of leave is allowed during a 12 month period).

UNPAID LEAVE: FMLA Leave is unpaid leave.

- Sick Leave, Vacation Leave and/or Compensatory Time may be retained or used according to applicable labor contract provisions or Classified System Personnel Rules and Regulations. Sick Leave, Vacation Leave or Compensatory Time will be counted toward the 12 week FMLA Leave allotment if the employee so chooses and meets the requirements to use such leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION: The employee may be required to provide medical certification and advance leave notice when the reason for the leave is foreseeable. FMLA Leave may be denied if these requirements are not met:

- The employee ordinarily must provide at least 30 days advance notice when the leave is “foreseeable.”
- The employer may require medical certification to support a request for FMLA Leave because of a serious health condition. (Second or third opinions may be required at the employer’s expense.) The employee is required to provide a fitness for duty report prior to returning to work. The need for a fitness for duty certification must be communicated to the employee at the same time as notice of eligibility for FMLA leave is given.

JOB BENEFITS AND PROTECTION:

- During FMLA Leave, the State’s contribution toward the employee’s health coverage will continue, provided that the employee continues his/her health coverage contribution and intends to return to work for at least 30 days after the FMLA Leave ends.

- Upon return from FMLA Leave, the employee will be restored to his/her original or equivalent position with equivalent pay, benefits, and other employment terms. The use of FMLA Leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS: The FMLA Leave law makes it unlawful for the employer to interfere with, restrain, discriminate, discharge, or otherwise deny an employee his/her rights provided under the FMLA.

ADDITIONAL INFORMATION AND ENFORCEMENT:

- See your agency Personnel Officer if you have questions.
- AS-Employee Relations is your State Government FMLA Leave resource. (402) 471-8292, (402) 471-4106, (402) 471-4104; TDD (402) 471-4693.
- The U.S. Department of Labor investigates and resolves complaints of violations. The FMLA coordinator for the Midwest Region (including Nebraska) can be reached by telephone at: 312-596-7189. The Wage and Hour Division also provides information from a toll-free number: 1-866-487-9243.
- An eligible employee may bring a civil action against an employer for violations.

Revised 3/10