

# **Family and Medical Leave Policy**

## **ELIGIBILITY AND ENTITLEMENT**

AMTRAN employees who have been employed at least twelve months and worked at least 1,250 hours in the twelve month period immediately preceding the date leave is to commence are eligible for a leave of absence pursuant to the Family and Medical Leave Act of 1993 (FMLA). This Act provides a maximum of twelve weeks of unpaid leave in a twelve month period to employees who meet the criteria for eligibility. To determine an eligible employee's entitlement to leave, the "rolling year rule" will be used, which looks at the twelve month period calculated backward from the date leave is taken.

For a full outline of Rights, Responsibilities and Definitions used by AMTRAN under this Policy, a request for AMTRAN'S FMLA procedure can be requested.

## **REASONS FOR LEAVE**

An eligible employee may take FMLA leave for:

1. For the birth of a child and to care for the newly born child;
2. For incapacity due to pregnancy, prenatal medical care, or birth;
3. For the placement of a child with the employee for adoption or foster care and to care for the newly placed child;
4. To care for the employee's spouse, child or parent with a serious health condition;  
or
5. For the serious health condition of the employee that prevents him/her from performing the functions of his/her job.

For a qualifying exigency arising out of the fact that an employee's spouse, son, daughter, or parent is a covered military member in the National Guard or Reserves, on active duty or has been notified of an impending call or order to active duty status in support of a contingency

Leave may be taken consecutively or if circumstances require, intermittently. Leave taken to care for a newly born child or a newly placed child for adoption or foster care must be taken consecutively. To determine if leave may be granted under the Act, contact the General Manager. The General Manager possesses all forms prescribed by the Department of Labor for processing and requesting leave.

FMLA leave is not considered a break in service for determining the employee's seniority or length of continuous service. Credit shall be given during FMLA leaves for any benefit accruals as it is given for all other leaves.

## **DEFINITIONS:**

*SERIOUS HEALTH CONDITION*—as defined in and subject to the requirements of 29 C.F.R. § 825.113, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a healthcare provider for a condition that prevents an employee or a qualified family member from participating in work, school, or the performance of other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity (which is the inability to participate in work, school, or the performance of other daily activities) of more than three (3) consecutive calendar days combined with at least two (2) visits to a healthcare provider or one visit and a regimen of continuing treatment; incapacity due to pregnancy; incapacity due to a chronic condition; incapacity due to a permanent condition; or conditions requiring multiple treatments. Other conditions may meet the definition of continuing treatment.

*HEALTH CARE PROVIDER*—a doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the state in which he or she practices or any other person defined as a health care provider under 29 C.F.R. § 825.125.

## **NOTICE REQUIREMENTS**

Where the need for leave is foreseeable, employees are expected to provide at least 30 days advance notice before leave begins. If the need for leave is not foreseeable, such as in an emergency, the employee must provide notice to AMTRAN as soon as is practicable.

## **CERTIFICATION OF THE NEED FOR LEAVE**

A medical certification from a health care provider must be provided to certify the need for leave for a serious health condition. Failure to provide a completed medical certification in fifteen (15) days will result in delay or denial of FMLA leave. In order to be complete, the medical certification must provide a HIPAA release permitting the AMTRAN to contact the employee's medical provider if necessary, in accordance with the FMLA. Where the original medical certification is incomplete or unclear, AMTRAN may contact the employee's treating physician in order to obtain clarification. Under no circumstances will this contact be made by the employee's direct supervisor.

In instance where the employer has reason to doubt the validity of the medical certification, it may require second and third opinions in accordance with the Act. In addition, AMTRAN reserves the right to require periodic recertification during an extended leave.

## **SUBSTITUTION OF PAID OR UNPAID LEAVE**

Employees must use any accumulated paid days concurrently with the unpaid FMLA leave. Use of such paid leave will count against the employee's twelve week entitlement. If eligible, an employee may receive sickness and accident payments during his/her FMLA absence pursuant to AMTRAN policies. Any other paid or unpaid leave (including a workers' compensation leave of absence) taken pursuant to AMTRAN policy that also qualifies under the Family and Medical Leave Act will also count against an employee's twelve (12) week FMLA leave entitlement and will be run concurrently with the FMLA leave.

## **BENEFITS WHILE ON LEAVE**

AMTRAN will continue to provide health care benefits during a leave of absence taken under this policy at the same coverage level that was in effect immediately preceding the date leave commences. If applicable, employees must make their share of premium payments in a timely manner. In the event an employee has not made his/her premium payment within 30 days of the date it is due, AMTRAN may cease to provide group health care benefits at that time. If an employee fails to return to work after his/her FMLA leave entitlement has been exhausted, AMTRAN reserves the right to recover from the employee its share of health care premium payments made during the period of FMLA leave, unless the employee does not return to work due to the continuation, recurrence or onset of a serious health condition of the employee or the employee's family member or other circumstances beyond the employee's control.

## **EMPLOYER OBLIGATIONS:**

Employees requesting FMLA leave are entitled to receive written notice from the AMTRAN informing the employee as to their eligibility for FMLA leave or for the reason the employee was determined to be ineligible.

When eligible for FMLA leave, the employee is entitled to receive written notice of the following:

1. Their rights and responsibilities in connection with the leave;
2. AMTRAN's designation of the leave as FMLA-qualifying or non-qualifying and the reason why the leave is non-qualifying; and
3. The amount of leave, if known, that will be counted against the employee's leave entitlement.

AMTRAN may retroactively designate leave as FMLA leave with the appropriate written notice to employees, provided AMTRAN's failure to designate leave as FMLA-qualifying at the earlier date did not cause harm or injury to the employee. In all cases where leave qualifies for FMLA protection, AMTRAN and the employee can mutually agree that the leave be retroactively designated as FMLA leave.

## **CALCULATION OF AVAILABLE LEAVE**

1. All leave requests that are FMLA qualifying status changes will be counted towards the 12-week entitlement period.
2. The Twelve Month Period discussed above shall be calculated as a rolling 12-month period measured backward from the date an employee uses FMLA leave.
3. An eligible employee per Section II(B) of this policy with a less than full-time appointment is entitled to 12 workweeks of FMLA. The amount per week is prorated based upon the employee's full-time employment criteria. For example, an employee whose normal schedule is to work a total of 30 hours a week is entitled to 12 weeks of FMLA at rate of 30 hours per week.

## **OPTIONS FOR TAKING FMLA**

1. Twelve weeks of FMLA leave may be taken all at once, intermittently, or on a reduced-leave schedule as approved. For example, an individual may arrange a reduced-leave schedule by working a three-day workweek or by working mornings only. Intermittent leave may be taken hourly, daily, or at weekly intervals. Arrangements for intermittent leave must be coordinated with the department. Employees utilizing intermittent leave may be transferred to another position with equivalent pay and benefits which better accommodates their need for intermittent leave, where appropriate.
2. Only the amount of leave actually taken is counted toward the 12 weeks of leave. For example, if an individual requests three hours for FMLA purposes, he or she will be charged only that portion, not the full day. However, not less than one (1) hour shall be counted as FMLA leave.
3. An employee may be temporarily transferred to an alternative position with equivalent pay and benefits to accommodate leave taken intermittently or on a reduced schedule.
4. A department may arrange an alternative work schedule to accommodate an individual's care giving needs if the schedule satisfactorily meets the function and mission of the department (the alternative work schedule provision of this section does not apply to members of ATU, Local 1345). Such schedule arrangement will not be considered FMLA unless it is taken.

## **TIMING OF EMPLOYEE NOTICE WHILE ON FMLA LEAVE**

Employees must comply with all normal absence procedures while taking FMLA leave provided there are no extenuating circumstances which would justify the employee's failure to comply with established absence policies and procedures. Employees who call in "sick" without providing reasons for the needed leave will not be considered to have provided sufficient notice to AMTRAN to qualify for FMLA leave for the absence under this policy.

## **COOPERATION WITH AMTRAN REQUESTS FOR INFORMATION**

Employees are required to cooperate with AMTRAN requests for information in compliance with the FMLA and this policy in order to allow the AMTRAN to make determinations regarding the applicability of FMLA leave.

Employees are required to submit medical certifications supporting their need for FMLA-qualifying leave. There generally are three (3) types of FMLA medical certifications: an initial certification, a recertification, and a return to work/fitness for duty certification. It is the employee's responsibility to provide AMTRAN with timely, complete, and sufficient medical certifications. In general, whenever the AMTRAN requests employees to provide FMLA medical certifications, employees must provide the requested information within fifteen (15) calendar days after AMTRAN's request unless it is not practicable to do so despite the employee's diligent, good faith efforts.

AMTRAN will inform an employee if an employee's certification forms are incomplete or insufficient and provide employees with at least seven calendar days to cure the deficiencies. If the Initial Medical Certification or any other Certification required by this policy is incomplete or unclear, AMTRAN may request that the Certification be clarified by the treating physician.

The AMTRAN requires that the employee provide a HIPAA-compliant release form along with the required medical certification in order to allow AMTRAN to authenticate and clarify the information contained within the medical certification where AMTRAN believes such authentication and/or clarification is necessary.

AMTRAN will deny FMLA leave to an employee who fails to provide this release or otherwise clarify the certification.

AMTRAN will deny or delay FMLA leave to employees who fail to submit requested medical certifications.

## **MEDICAL CERTIFICATION**

1. In cases where an employee seeks to take FML leave due to a serious health condition, a health care provider's documentation required to certify the existence of that "serious health condition." Such certification shall also apply to family members, if the care of such family members is the basis for the leave. See, 29 U.S.C. § 2613 and DOL forms relative to such leave certification. In the event appropriate medical documentation is not provided to the employer to certify the medical condition as a serious health condition under the Act, such FML leave may be denied or the protections set forth under the Act may not apply to the particular circumstances. Notification of denial must be given to Employee. In order to be complete, the medical certification must provide a HIPAA release permitting AMTRAN to contact the employee's medical provider if necessary, in accordance with the FMLA. Where the original medical certification is incomplete or unclear, AMTRAN may contact the employee's treating physician in order to obtain clarification. Under no circumstances will this contact be made by the employee's direct supervisor.

2. In the case of care for a family member, such notification shall specify the duration and time of care required by the Employee so as to determine whether such leave shall be on a block schedule or shall be intermittent.
3. In certain circumstances the employer may question the validity of the medical certification provided. In that case the employer may obtain a second opinion concerning the health condition.
4. In the event the employer's and the employee's medical provider's opinions differ, a third opinion may be obtained at the expense of the employer. The doctor/medical provider performing the third opinion must be agreed upon by both the employer and the employee. The third opinion is binding.
5. The employer may request reasonable re-certifications of the employee's illness during leave as set forth above.
6. In the event of a serious health condition such medical information shall set forth the anticipated duration of such leave.

#### **QUALIFYING EXIGENCY LEAVE:**

The normal 12 workweeks of FMLA leave are available to help family members of the National Guard and Reserves manage their affairs while the member is on active duty in support of a contingency operation. These 12 workweeks may be used for any qualifying exigency arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. Qualifying exigencies include the following:

(A) *Short-notice deployment*—any issue that arises from the fact that a covered military member is notified of an impending call or order to active duty seven (7) or less calendar days prior to the date of deployment. Leave taken for this purpose can be used for a period of seven (7) calendar days beginning on the date the covered military member is notified of an impending call or order to active duty.

(B) *Military events and related activities*—leave is permitted for the employee to attend any official ceremony, program, or event sponsored by the military and to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered family member.

(C) *Childcare and school activities*—leave under this section may be taken:

(i) To arrange for alternative childcare when the active duty status of a covered military member necessitates a change in the existing childcare arrangement.

(ii) To provide childcare on an urgent, immediate need basis when the active duty status of a covered military member necessitates (but not on a routine, regular, or daily basis).

(iii) To enroll the child in or transfer the child to a new school or day care facility when the active duty status of a covered military member necessitates.

(iv) To attend meetings with staff at a school or a day care facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, when the active duty status of a covered military member necessitates.

(D) *Financial and legal arrangements*—leave provided to make or update financial or legal arrangements to address the covered military member's absence while on active duty such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System, obtaining military identification cards or preparing or updating a will or living trust. It also allows leave to act as the covered military member's representative before a federal, state, or local agency for the purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty.

(E) *Counseling*—leave is provided to attend counseling provided by someone other than a healthcare provider for oneself, for the covered military member, or for their biological, adopted, foster, or step child or their legal ward.

(F) *Rest and recuperation*—provides leave for eligible employees to take up to 5 days of leave for spending time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment.

(G) *Post-deployment activities*—leave will be granted to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty to address issues that arise from the death of a covered military member's active duty, such as meeting and recovering the body of the covered military member and making funeral arrangements.

(H) *Additional activities agreed upon by employee and employer.*

No leave is available under this provision for employees whose family member is in the Regular Armed Forces. The employee must have a spouse, son, daughter, or parent called to active duty in order to qualify for leave under this provision. This leave is only available for Federal calls to Active Duty for members of the National Guard and Reserves. State calls to Active Duty are not covered under this provision.

## **ADDITIONAL MILITARY FAMILY LEAVE ENTITLEMENT (INJURED SERVICEMEMBER LEAVE):**

An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember is entitled to take up to 26 weeks of leave during a single 12 month period to care for the servicemember with a serious injury or illness. Leave to care for a servicemember shall only be available during a single 12-month period and, when combined with other FMLA –qualifying leave, may not exceed 26 weeks during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured servicemember.

A “covered servicemember” means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary retired list, for a serious injury of illness. A member of the Armed Forces would have a serious injury or illness if he/she has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that the injury of illness may render the servicemember medically unfit to perform duties of the member’s office, grade, rank or rating.

## **RETURNING TO WORK**

Upon return from a leave of absence granted pursuant to this policy, employees will be returned to their former position or to a position with equivalent pay, benefits and conditions. Any employee determined to be a “key employee” as defined by the Act may be denied restoration to his/her position. You must notify AMTRAN of your intent to return to work and provide a fitness for return to duty certification from a health care provider prior to your return, which shall be consistent with AMTRAN’S Medical Examination Policy. Positions will not be protected in the event there is a reduction in force.

Administration of this benefit will be governed by the Family and Medical Leave Act. This policy will only be in effect during time periods in which AMTRAN is a “covered employer” as defined by the FMLA.

## **CONTINUED APPLICATION OF AMTRAN POLICIES**

Nothing in this FMLA Policy insulates an employee from the application of any other AMTRAN policies, e.g., while on FMLA leave an employee is still subject to all other employment related policies of general applicability, including call-off and absence procedures. No employee is permitted to work or take another job while on FMLA leave. Employees who obtain outside employment while on FMLA may be subject to immediate termination, to the extent permitted by law.

## **PROHIBITIONS**

The FMLA makes it unlawful for employers to:

1. Interfere with, restrain, or deny the exercise of any right provided under the FMLA; or
2. To discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

If the employee believes their rights have been violated, they should contact the Human Resources Department immediately. AMTRAN will investigate any FMLA complaint and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees may also file FMLA complaints with the U.S. Department of Labor or may bring private lawsuits alleging FMLA violations.

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