



# south carolina STATE LIBRARY

## South Carolina State Library Family and Medical Leave Act Policy

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

### I. Eligibility

Any employee of the South Carolina State Library (Agency) who has worked for the State at least 12 months, not consecutive, and 1250 hours, prior to requesting leave under the Family and Medical Leave Act (FMLA) may be eligible for leave, in accordance with this policy and the Family and Medical Leave Act. For purposes of this policy, the 12 months need not be consecutive, but employment periods prior to a break in service of 7 or more years need not be counted unless the break in service was due to fulfillment of National Guard or Reserve military obligation, or a written agreement exists concerning the State's intention to rehire the employee after the break in service. An employee returning from National Guard or Reserve duty is credited with the hours of service that would have been worked except for the military service.

A break in service for this policy is defined as an absence of employment from state government.

### II. Use of FMLA Leave

An employee shall be granted up to a total of 12 workweeks of FMLA leave in each 12 - month period on a continuous or intermittent basis, for one or more of the following reasons:

- Birth, adoption or placement in foster care of a child;
- For the care of a spouse, child or parent with a serious health condition
- For the employee's own serious health condition which makes the employee unable to perform the functions of his or her position;
- For a qualifying exigency caused by the call to active duty of a member of the Armed Forces; and qualifying exigencies can include:
  - 1) short notice deployment;
  - 2) military events and related activities;
  - 3) childcare and school activities;

- 4) financial and legal arrangements;
  - 5) counseling;
  - 6) rest and recuperation;
  - 7) post- deployment activities; and
  - 8) additional activities not encompassed in other categories but agreed by the agency and the employee.
- To care for a spouse, child, parent or next of kin who is a service member and is injured or becomes seriously ill while on active duty.

Under the military caregiver leave provisions, an eligible employee who is the spouse, son, daughter, parent or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, may be entitled to up to a total of 26 workweeks during a single 12- month period to care for the service member who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties; for which the service member is undergoing medical treatment, recuperation, or therapy, or is in outpatient status; or is on the temporary disability retired list.

For the purposes of this policy, a **serious health condition** is:

- 1) an illness, injury, impairment, or physical or mental condition that involves either inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity or subsequent treatment in connection with such inpatient care; or
- 2) Continuing treatment by a healthcare provider, which includes:
  - a. a period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition;
  - b. any period of incapacity related to pregnancy or for prenatal care;
  - c. Any period of incapacity or treatment for chronic serious health condition which continues over an extended period of time, requires periodic visits to a healthcare providers (at least twice a year), and may involve occasional episodes of incapacity. A visit to a healthcare provider is not necessary for each absence; or
  - d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a healthcare provider is required, rather than treatment; or
  - e. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

Generally, the 12-month period, under South Carolina State Government is a calendar year, with the exception of leave for the birth of a child and to care for the newborn child; and for the placement of a child for adoption or foster care. In these exceptions, the 12-month period expires after the birth or placement.

### III. Notice of the Need for Leave

An employee requesting FMLA leave must, when foreseeable, give 30 days advance notice to the Agency of the need to take FMLA leave. When 30 days is not possible, the employee must provide notice as soon as practicable and must comply with the Agency's normal call-in procedures.

### IV. Medical and Other Certifications

The Agency may require employees requesting FMLA leave to provide certification from a health care provider to support the need for FMLA leave. Certification will be required for the following: 1) an employee's own serious health condition; 2) to care for a family member with a serious health condition; or 3) military caregiver leave. The Agency may also require periodic recertification of a serious health condition and to establish familial relationships. Separate certification may be required to confirm the nature of the family member's military service or the existence of a qualifying exigency. An agency may require additional information for the need for FMLA leave.

An employee who refuses to provide medical certification or other required documentation to the Agency may lead to a denial or delay of his or her FMLA leave request.

### V. Notification and Designation of FMLA Leave

The Agency will notify the employee of his or her eligibility to take leave. The Agency will also inform the employee of his or her rights and responsibilities under FMLA. FMLA leave will run concurrently with other leave types such as worker's compensation, administrative leave, sick leave, annual leave, and leave without pay, when applicable. FMLA leave will be charged against all applicable leave types.

### VI. Intermittent FMLA Leave and Reduced Schedule

If medically necessary, eligible employees may take FMLA leave on an intermittent basis or on a reduced schedule for their own serious health condition, the serious health condition of a spouse, daughter, son, or for military caregiver leave.

Leave due to the birth or adoption of a child may be taken intermittently and must be completed within the 12-month period beginning on the date of the birth or placement of the child and is subject to employer's approval.

### VII. Spouses Working for the State

Spouses employed by the State are limited in the amount of FMLA leave they may take. The employee and the employee's spouse may be limited to a combined total of 12 weeks of FMLA leave in a calendar year. For military caregiver leave, the employee and employee's spouse may be limited to a combined total of 26 weeks of leave in a single calendar year.

## VIII. Maintenance of Insurance Benefits

The Agency will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work.

## IX. Job Restoration

Upon return from FMLA leave, an employee who can still safely perform the position's essential functions, is entitled to return to the same position the employee held when the FMLA leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. That position must involve the same or substantially similar duties and responsibilities, which must entail equivalent skill, effort, responsibility and authority.

The agency will not interfere, restrain, or deny the exercise of any rights provided by the Family Medical Leave Act.

*Date: March 11, 2009*

*Approved by the SCSL Board on March 25, 2009*