

FAMILY AND MEDICAL LEAVE – FEDERAL

The following administrative procedure covers the main provisions of the federal Family and Medical Leave Act (FMLA). The guidelines in no way attempt to modify the Act which should always be referred to when questions about implementation arise. Maine Indian Education is responsible for analyzing each employee request for leave to determine whether s/he is eligible under the federal and/or state statute. When an employee is eligible for leave under both the federal and state statutes, the applicable law with regard to each benefit shall be the one which provides the greater benefit (usually federal FMLA).

Eligibility Requirements

To be eligible under the FMLA, employees must work at a site where 50 or more individuals are employed by the same entity within 75 miles of that work site. An employee must have been employed by the school unit for at least twelve months and have worked at least 1250 hours in the previous twelve-month period.

According to the law, teachers employed on a full-time basis are presumed to meet the minimum hours requirement.

Under the FMLA, an eligible employee is entitled to receive up to twelve weeks of leave during a twelve-month period for the following reasons:

- A. The birth and care of a child;
- B. The adoption or foster placement of a child with the employee;
- C. To care for a spouse, child or parent with a serious health condition.

Administration

A. If the leave request is due to the employee's serious health condition, the employee is required to provide medical certification stating the date the health condition commences, the probable duration, the appropriate medical facts concerning the condition, and that the employee cannot perform the functions of his/her job.

If the leave request is due to the serious health condition of a family member, the employee is required to provide medical certification stating the date the health condition commenced, the probable duration, the appropriate medical facts concerning the condition, and an estimate of the time the employee will be needed to care for the family member.

B. The twelve-month period in which an employee is entitled to twelve weeks of FMLA leave shall be September 1 to August 31.

C. An employee must submit an application for leave at least 30 days in advance when the leave is foreseeable, or as soon as practicable if it is not foreseeable.

D. Any leave taken for FMLA-qualifying purposes (including leave taken under employment policies, written reasonable assurances, or contracts) shall also be applied to an employee's annual FMLA entitlement. When paid leave taken for FMLA-qualifying purposes is exhausted, the balance of FMLA leave shall be unpaid.

E. During federal Family Medical Leave, an employee shall be permitted to continue his/her medical insurance plan, providing the employee remits the monthly premium as directed by the administrative office. Maine Indian Education will continue to pay its share of the employee's health insurance premium while the employee is on unpaid FMLA leave.

F. Upon an employee's return to work, s/he will be restored to his/her previous position or to an equivalent position with equivalent pay, benefits, conditions and terms of employment.

G. An employee returning from FMLA leave for his/her own serious health condition is required to submit medical certification that indicates fitness to return to work and ability to perform the functions of the job.

H. If the employee is unable to return to work because of his/her own serious health condition at the expiration of allowable FMLA leave, the Superintendent may consider a request for extension of unpaid leave and benefits, of up to 30 calendar days, on a case-by-case basis. If the leave extension request is for over 30 calendar days the request for extension will be sent to the Maine Indian Education Joint School Committee or individual school committees for consideration. Failure to return to work upon the expiration of FMLA leave may subject the employee to immediate termination unless such an extension is granted.

I. An employee who is not eligible for federal FMLA leave may be eligible for Maine Family Medical Leave.

Legal Reference: 26 USC Sec. 2601 et seq.
29 CFR Part 825

Cross-Reference:

- GBN–Family and Medical Leave
- GBN-R2 – Maine Family and Medical Leave Act Administrative Procedure