

504 Family and Medical Leave (FMLA & NDUFLA)

Effective Date: 4/23/2004

Revision Date:

Family Medical Leave Act (FMLA)

The Family and Medical Leave Act of 1993 (FMLA) requires employers with at least 50 employees within a 75 mile radius, to provide up to 12 weeks of unpaid leave for certain serious family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year and for 1,250 hours over the previous 12 months.

Reasons for FMLA

Unpaid leave must be granted:

- To care for the employee's child after birth, or placement for adoption or foster care
- To care for the employee's spouse, child, or parent, who has a serious health condition
- For a serious health condition of the employee.

Requirements

- The employee must provide 30 days advance notice when the leave is foreseeable.
- The Dept. of Commerce may require medical certification to support a request for leave and may require second or third opinions (at the Department's expense) and a fitness for duty report to return to work.
- The Dept. of Commerce may require proof of relationship in the event of leave to care for a spouse, child, or parent.
- An employee is required to use all paid leave in conjunction with FMLA leave before taking unpaid leave.

If both the employee and their spouse are employed by the state of North Dakota, their combined leave may not exceed 12 weeks.

Job Benefits and Protection

During FMLA leave, the Dept. of Commerce must maintain the employee's health coverage. The Department may recover the premiums paid for an employee if the employee does not return from leave.

Upon return from FMLA leave, an employee must be reinstated to their original or equivalent position with equivalent pay, benefits, and terms and conditions of employment.

The employee and/or supervisor should notify the Office Manager immediately when leave under this act has been made known.

Uncompensated Family Leave Act (UFLA)

In addition to the Family and Medical Leave Act of 1993 (FMLA), North Dakota state employees are covered by the state's Uncompensated Family Leave Act of 1989. The FMLA provides that where state leave laws are more generous than federal leave law, the state law shall prevail. The provisions of state law which are more generous than federal are listed below.

Under this act, state employees who have worked one year and at least 20 hours a week are covered.

Eligible employees may extend their FMLA leave to 16 weeks to:

- Care for the employee's child after birth, or placement for adoption or foster care.
- Care for the employee's spouse, child, or parent who has a serious health condition.

If both the employee and their spouse are employed by the state of North Dakota, their combined leave may not exceed 16 weeks.

The requirements, job benefits, and protection under the state's Uncompensated Family Leave Act and the federal FMLA are the same.

The employee and/or supervisor should notify the Office Manager immediately when leave under this act has been made known.