


NORTH DAKOTA HIGHWAY PATROL POLICY MANUAL

	SUBJECT FAMILY AND MEDICAL LEAVE	POLICY NUMBER 6-8
		EFFECTIVE DATE 10-4-04
	APPLICABLE CALEA STANDARDS 22.2.1, 33.7.1	RESCINDS 6-8
		DATED 3-1-99

PURPOSE

To establish detailed policies and procedures regarding family and medical leave.

POLICY STATEMENT

It is the policy of the NDHP to provide employees' family and medical leave entitlements in accordance with the Family and Medical Leave Act of 1993 and the State Employee Leave Policies of Chapter 54-52.4 NDCC.

PROCEDURE

- A. An employee may take up to twelve weeks of unpaid, job-protected medical leave out of a twelve consecutive month period for the following reasons:

1. To care for the employee's child after birth or placement for adoption or foster care.

An employee's eligibility to take FMLA leave for the birth of a child or the placement of a child for adoption or foster care expires twelve months after the birth or placement of the child.

2. To care for the employee's spouse, son or daughter, or parent who has a serious health condition.
 3. For a serious health condition that makes the employee unable to perform the employee's job. At the employee's or the state's option, certain kinds of paid leave may be substituted for unpaid leave.
- B. Employees are eligible if they have worked for the state for one year and have worked at least 1,250 hours during the previous twelve months.
- C. An employee may be required to report periodically on whether or not the employee plans to return to work.
- D. The employee may be required to provide advance leave notice and certification. Taking of leave may be delayed if requirements are not met.
1. The employee must provide 30 days notice when FMLA leave is foreseeable. When 30 days notice is not possible, notice must be made as soon as practicable.
 2. The employee shall make a reasonable effort to schedule treatment so as not to disrupt unduly the operations of the agency, subject to the approval of the health care provider.

3. The agency may require certification issued by a health care provider to support a request for leave because of a serious health condition.
 - a. In any case in which the agency has reason to doubt the validity of the certification the agency may require, at the expense of the agency, that the eligible employee obtain the opinion of a second health care provider.

In any case in which the second opinion differs from the original certification, the agency may obtain, at the expense of the agency, the opinion of a third health care provider. The third provider shall be designated or approved jointly by the agency and the employee. The opinion of the third provider shall be considered final and shall be binding on both the agency and the employee.

E. Job Benefits and Protection

1. For the duration of the leave, the state must continue to pay for health insurance benefits.
 2. Upon return from leave, employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
 3. The use of leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- F. It is unlawful for the state to interfere with, restrain, or deny the exercise of any right provided under the Family and Medical Leave Act.
- G. The failure of the employee to return to work upon the expiration of FMLA leave may subject the employee to termination of employment.
- H. The United States Department of Labor is authorized to investigate and resolve complaints of violations. An eligible employee may bring a civil action against an employer for violations. The Family and Medical Leave Act does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.