

ELMHURST PUBLIC LIBRARY FAMILY AND MEDICAL LEAVE ACT (FMLA)

Uses of FMLA leave. In accordance with the Family and Medical Leave Act of 1993, Elmhurst Public Library grants leave without pay to eligible employees for up to the maximum leave of either 12 or 26 weeks in a 12-month period, depending on the reason for leave. This FMLA leave is a period of time eligible employees can be absent from work for a qualifying reason with job protection. The time off is not paid, unless the employee has personal, vacation, sick or worker's compensation leave. Paid sick leave, personal business days, vacation days and worker's compensation leave (in certain circumstances) must be used concurrently with FMLA leave. Employees can request to use FMLA leave to cover the time they need to be away from work for any of the following purposes.

Up to 12 weeks leave:

- 1) for incapacity due to pregnancy, prenatal medical care or child birth;
- 2) to care for the employee's child after birth, or placement for adoption or foster care;
- 3) to care for the employee's spouse, son or daughter, or parent, who has a serious health condition;
- 4) for a serious health condition that makes the employee unable to perform the employee's job;
- 5) for a qualifying exigency arising out of the fact that a spouse, son or daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty as a member of the Armed Forces (including the National Guard and Reserves);

Up to 26 weeks leave:

- 6) to care for a spouse, son or daughter, parent or next of kin who is a covered service member with a serious injury or illness, incurred during active military duty.

Eligibility. To be eligible for FMLA leave, an employee must have worked for the Elmhurst Public Library for at least one year and performed at least 1,250 hours of work during the 12 months prior to the request for leave. If there are months and hours that reservists or National Guard members would have worked if they had not been called up for military service, those months and hours count towards the employee's eligibility for FMLA leave and Military Caregiver Leave.

Requesting leave. Employees who know in advance that they need to take a FMLA leave **MUST** give their supervisor's 30 calendar days' advance notice. If 30 days notice is not possible, the employee must provide notice as soon as practicable and must comply with the Library's normal call-in procedures. This generally means notifying the Library on the same day as an employee first learns of the need for leave, unless extenuating circumstances exist. Employees need to complete a "Request for FMLA Leave" form when requesting FMLA leave and submit it to the Administrative Office of the Library. The Library will provide notice to the employee indicating whether the leave request has been approved or denied within five (5) business days of receiving information regarding the request to enable a determination of whether the leave is taken for an FMLA-qualifying reason, absent extenuating circumstances.

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Certification. Employees who request FMLA leave for reasons 1, 3, 4, 5, or 6 above must submit a completed Certification form to the Administrative Office before the leave can be approved. Certification forms must be completed by the treating health care provider or, for qualifying exigency leave, by the applicable service provider. The Library uses the Department of Labor's standard forms for certification purposes. Failure to provide certification within 15 days of notification may result in a delay or denial of leave.

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➤ Certification forms include:

- Employee's Serious Health Condition
- Family Member's Serious Health Condition
- Qualifying Exigency for Military Family Leave
- Serious Injury for Covered Service Member
- Serious Injury for Illness for Veteran for Military Caregiver Leave

Amount of leave. Employees can take leave for reasons 1-5 above for up to 12 weeks in a rolling 12-month period, measured backward from the date of any FMLA leave usage. However, where spouses both work for the Elmhurst Public Library, the two employees are limited to a combined total of 12 weeks of family leave to cover the time off they need after the birth or placement of a child or to care for a seriously ill parent. However, each employee is eligible to take any unused portion of the 12 weeks for his or her own serious health condition, the care of a seriously ill child, the care of the other spouse, or for a qualifying exigency. Employees may take up to 26 weeks leave to care for a covered service member with a serious injury or illness that was due to active military duty. Injured servicemember leave begins on the first day of that leave and must be concluded within the next 12 months. Spouses employed by the Library who request injured servicemember leave may only take a combined aggregate total of 26 weeks leave for such purpose.

Any FMLA leave taken by an employee for reasons *other* than an injured or ill servicemember will reduce the 26 weeks of available leave to care for an injured servicemember. As a result, if an employee requests injured servicemember leave, the maximum leave allowed will be up to 26 weeks, less any FMLA leave already used in the same 12-month period for any other reason.

Intermittent leave. Employees taking leave to care for a newly born or newly placed child do not have a legal right to take intermittent leave and can do so only with their supervisor's prior, written consent. Employees taking leave for any other reason will be charged their allotment of FMLA leave intermittently or in accordance with a reduced work schedule if such intermittent leave is medically necessary. Employees using intermittent leave for planned treatment must schedule leave to minimize disruption of normal operations and are expected to obtain Library consent to try to arrange a mutually acceptable time to schedule their leave.

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Privacy and leave requests. Employees must inform their supervisors that they need family or medical leave and when they expect to be absent. However, supervisors should not ask or inquire about the reasons for the employee's leave request. Instead, to ensure the worker's privacy, the Administrative Office makes any necessary inquiries and evaluates whether there is a medical need for the leave. The Administrative Office also is responsible for ensuring that all medical information provided by employees is maintained in the strictest confidence.

Compensation and benefits during leave. FMLA leave is unpaid. Eligible employees are required to use accrued paid leave (sick, personal business days, vacation time, and worker's compensation) during FMLA leave prior to taking unpaid leave. However, employees on FMLA leave continue to be covered by the City of Elmhurst group health benefits plan on the same terms that are applicable for active employees. FMLA leave does not cause employees to lose any previously accrued employment benefits.

Reinstatement following leave. On returning from an FMLA leave of absence, employees normally are restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. However, employees have no greater right to reinstatement or other benefits and conditions of employment than if they had not taken leave. An employee must return to work immediately after the expiration of the approved FMLA leave in order to be reinstated to the former or an equivalent position. Another exception to the reinstatement procedure applies to certain key employees (highest paid who are salaried and exempt), who are notified of their status when they first request FMLA leave. Key employees who take FMLA leave are reinstated to their former or equivalent positions only if their reinstatement does not cause the Library substantial and grievous economic injury.

Compliance with FMLA requirements. This policy is intended to comply with FMLA and should be interpreted in light of regulations implementing that act. In particular, terms used in this policy have the meanings they are given in the regulations implementing FMLA.

The employee is responsible for payment of his portion of the applicable insurance premiums during periods of leave without pay under terms and conditions to be determined by the Library. An employee who does not return to work after the leave will be charged retroactively for the full premium cost of coverage, unless the failure to return to work is due to a serious health condition or circumstances beyond the employee's control.

The Library requests employees provide written notice of the employee's intention to return to work to the employee's department head at least 30 calendar days before the date the leave is to terminate. Employees are also required to provide updates to the library.

An employee on leave because of his or her own serious health condition must present a fitness-for-duty certification from a health care provider prior to being restored to employment. Failure to provide the certification may delay reinstatement until certification is provided. The health care provider may be required to certify that a return to work is authorized after a review of the job duties of the employee.

See also attached Department of Labor Form 1420 (FMLA Posting) for additional information.