
	<h1>Pine-Strawberry Fire District</h1> <h2>Compensation and Benefits</h2> <h3>4.1</h3>	
Subject: FMLA	Page: 1 of 8	
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I. PURPOSE:

The Family Medical Leave Act (FMLA) of 1993 entitles eligible members of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the member had not taken leave.

II. POLICY:

As a public agency, Pine-Strawberry Fire District (PSFD) is a covered employer under the FMLA, which obligates the District to publish a policy addressing the FMLA benefits.

- A. However, due to having less than 50 members, PSFD does not meet the requirement to provide FMLA.
- B. It is the intention of PSFD to voluntarily provide the protections covered under FMLA, where operationally practical, as outlined in FMLA.
 - 1. The Family Medical Leave (FML) benefits protection that PSFD is providing will be classified as FML and not regulated or enforced by the Department of Labor.
- C. PSFD will post (at all work locations) notification explaining rights and responsibilities under FML and ensure new members review the policy.

III. SCOPE:

This policy shall apply to all PSFD members if the member has been employed by the District for at least 12 months and has worked at least 1,250 hours during the

12 months immediately preceding the commencement of the leave.

IV. DEFINITIONS:

- A. Parent: Biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the member when the member was a child. This does not include parents-in-law.
- B. Son, Daughter, or Child: Biological, adoptive, stepchild, foster child, legal ward, or child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of mental or physical disability at the time that FMLA leave is to commence.
- C. Spouse: A husband or wife as defined or recognized in the state where the individual was married, lives, and includes individual in common law marriage or same-sex marriage.
- D. Loco Parentis: A person stands in loco parentis if that person provides day-to-day care or financial support for a child. Members with no biological or legal relationship to a child can stand in loco parentis to that child and are entitled to FMLA leave. (For example, an uncle who cares for his sister's children while she serves on active military duty or a person who is co-parenting a child with his or her same-sex partner or a person who stood on loco parentis to the member when the member was a child.)
- E. Immediate Family Member: A parent, spouse (as defined by state law), or child of the member.
- F. Serious Health Condition: An illness, impairment, injury, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider. In addition, a serious health condition would be any condition that renders the member unable to perform the functions of the job.
- G. Twelve Weeks: The allowance for 12 weeks in a "12-month Period" shall be measured forward from the first day of the member's FML leave.
- H. Health Care Provider: A licensed doctor, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse-midwife, or clinical social worker; or Christian Science practitioner; or any health care provider recognized by the employer; or a health care provider who practices in a country other than the U.S. who is authorized to practice under the laws of that country.

- I. **Qualifying Exigency:** A non-medical activity, which includes short-notice deployment, military events and related activity, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities where the employer and member agree to the leave.
- J. **Military Caregiver:** Is defined by the National Defense Appropriates Act (NDAA) as “a spouse, child, parent, or next of kin caring for a member of the Armed forces who is undergoing medical treatment, therapy, recuperation, or is otherwise in outpatient status or on temporary disability retirement of a serious injury or illness.” The serious injury or illness must have been incurred in the line of active duty.
- K. **Active-Duty, Call to Active-Duty Status:** Refers to an active-duty member of the US Military, a member of the National Guard or Reserves who is under a call or active-duty or notified of an impending call/order to active-duty, in support of contingency operation.
- L. **Covered Military Member:** A member's spouse, son, daughter, or parent who is on active-duty or called to active-duty status.

V. FML ELIGIBILITY:

- A. For members to be covered by FML, the member must have worked for PSFD for at least 12 months and worked at least 1,250 hours during the 12 months immediately preceding the commencement of the leave.
 - 1. The 12-month period of time does not have to be consecutive. However, no separation may exceed 6 months.
 - 2. 12 weeks of leave in a rolling 12-month period, measured backward from the date FML leave is used for:
 - a. The birth of a child or to care for the newborn child within 1 year of birth.
 - b. The placement with the member of a child for adoption or foster care or to care for the newly placed child within 1 year of placement.
 - c. To care for the member's spouse, child, or parent who has a serious health condition.
 - d. A serious health condition that makes the member unable to perform the essential functions of their job.

- B. Eligible spouses employed by the District are entitled to an aggregate total of 12 weeks of leave for the birth, adoption, or foster care placement of a child. If the District employs two individuals who are married, they shall be entitled to a total of 12 weeks for such an event. They shall not each be entitled to 12 weeks for a single such event, rather one can take all 12 weeks, or they can split it between them.
 - 1. Entitlement to leave for the birth, adoption, or foster care of a child expires after 1 year.
- C. In the event of an FML qualifying event, a member may either request FML leave, or in the absence of such request, the District may inform the member of FML eligibility and initiate the appropriate paperwork. If eligibility is confirmed, placement on FML is not optional. Rather, it is required so the District maintains compliance with FMLA Regulation.

VI. FML LEAVE PROCESS:

- A. Eligible members must request FML leave in writing to the Fire Chief or acting Fire Chief at least 30 days prior to commencement of leave.
 - 1. If members learn of the need for FML leave less than 30 days in advance, the member must provide written notification as soon as practical under the circumstances, generally the day of or the next workday.
 - 2. PSFD intends to utilize the U.S. Department of Labor forms. These forms are available at <https://www.dol.gov/agencies/whd/fmla/forms>.
- B. When FML leave is unexpected, the eligible member must inform their direct supervisor by following call-in procedures unless unable to do so. (For example, if receiving emergency medical care.)
 - 1. While the member does not have to specifically request FML leave at initial contact, sufficient information must be disclosed regarding their condition. If adequate information isn't provided, the FML leave may not be protected.
 - 2. If PSFD believes the event falls under FML, PSFD can place the member on FML.
- C. Once the member has notified their employer, PSFD must notify the member in writing within 5 business days if they are eligible for FML leave.
 - 1. If a member is not eligible, the leave is not FML protected.

2. If the member is eligible for FML, PSFD will provide the member their rights and responsibilities.
 3. The eligible member requesting FML leave will be required to complete and submit to the Fire Chief, or acting Fire Chief, applicable medical certification from a health care provider and appropriate U.S. Department of Labor forms within 15 business days of the FML approval.
- D. The member shall be required to use accrued PTO at the commencement of the leave. If the member becomes eligible for short term disability, the members can elect to continue to use their PTO. Members who exhaust their PTO prior to the end of their leave period shall then be on unpaid leave.
1. While a member is using PTO, they will continue to accrue PTO and have insurance and retirement benefits paid as normal.
 2. When a member is on unpaid leave, they will not accrue PTO, and will not have retirement contributions paid.
- E. Group insurance benefits shall be provided for the duration of the leave as though the member were on an active status.
1. The member is responsible for any portion of the payment they normally responsible for when working.
 2. Insurance coverage may terminate if the member does not return to work or does not return when scheduled.
- F. Medical Certification: The member is responsible for the cost, if any, of obtaining the medical certification from a health care provider and ensuring it is provided to the Fire Chief.
1. If a member fails to provide the medical certification, FML can be denied.
 2. If any necessary information is missing from the medical certification, PSFD will notify the member in writing for the missing information.
 - a. The member will have 7 business days to provide the missing information.
 - b. If missing information is not provided, the FML can be denied.
 3. The Medical Certification must include the following specific information:
 - a. Contact information for the health care provider.

- b. When the serious health condition began.
 - c. How long the condition is expected to last.
 - d. Appropriate medical facts about the conditions (may include information of symptoms, referrals for treatment and medical visits).
 - e. Whether the member needs leave continuously or intermittently (should include an estimate of the time needed for each absence, how often).
- G. If the District has any reason to doubt the validity of the medical certification, it may require, at District expense, the opinion of a second health care provider of the District's choice.
 - 1. If the two opinions differ, the District may require, at its expense, a third opinion (by a mutually agreed upon provider), which shall be final and binding.
 - 2. Refusal to submit to second or third opinion examinations shall result in denial of the FML request.

VII. RETURN TO WORK (RTW):

- A. A member whose leave of absence was due to their own serious health condition shall be restored to the same position held before the leave of absence once the following conditions are met:
 - 1. The member shall provide a release to RTW from their health care provider.
 - a. Failure to provide the release will result in the delay of the member returning to work.
 - 2. The member shall contact the Fire Chief to provide notification to RTW and to determine when to report for duty.
 - 3. RTW may be contingent upon a physical exam by the District physician and/or PSFD physical testing requirements prior to RTW.
 - 4. RTW may be contingent upon a mentally fit for duty exam by a qualified provider.
 - 5. Any mandatory training missed must be made up within 30 days.
- B. PSFD is not required to restore a member's position after exhausting FML.
- C. If the member is unable to return to work after exhausting FML, the member may fall under the Americans with Disabilities Act (ADA).

VIII. INTERMITTENT/REDUCED SCHEDULE LEAVE

- A. Intermittent leave or leave on a reduced schedule may be taken by a member when it is necessary for the member's own serious health condition or for the care of an immediate family member with a serious health condition.
- B. Intermittent leave can be a few hours off per day or a day/ week, at intervals, based on the medical needs. A reduced leave schedule reduces the number of work hours per day or week.
- C. Approval for intermittent or reduced leave shall be granted only if deemed necessary by a health care provider. A member must attempt to schedule their leave to minimize disruption to District operations, subject to approval of the Fire Chief.
- D. The District reserves the right to require the member to work in a different position or on a different schedule during the intermittent or reduced schedule leave that shall better accommodate the necessities of the District. The alternative position shall provide the same pay and benefits as the position held prior to commencement of the leave.

IX. MILITARY FML:

- A. FMLA regulations, as defined by the Department of Labor, includes 2 types of military leave:
 - 1. Qualifying exigency leave.
 - 2. Military caregiver leave.
- B. A member eligible to take FML military leave must have worked for PFSD for a total of 12 months and worked at least 1,250 hours over the previous 12 months.
- C. When PSFD believes that an event is a qualifying event or is notified by the member of an FML military leave request, the member will provide written documentation and the certification of qualifying exigency for military family leave, WH-384.
- D. 26 weeks of leave during a single rolling 12-month period, measured backward from the date the member utilized FML to care for a covered service member with a serious injury or illness if the eligible member is the service member's spouse, child, or next of kin (military caregiver leave).

- E. FML military leave is unpaid. However, the member may use accrued PTO for some or all of the FML.
- F. When a member is on unpaid leave, they will not accrue PTO, will not have retirement contributions paid, and will be responsible for payment of their portion of insurance premiums.
- G. Members must follow the requirements in Section VII to return to work.