

YOUR RIGHTS UNDER THE Alaska Family Leave Act (AFLA), Family Medical Leave Act (FMLA) and Military Family Leave

THE FAMILY AND MEDICAL LEAVE ACT (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons (Iñisaġvik College is a covered employer). 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, and if there are at least 50 employees within 75 miles. The 12 months of service need not be consecutive (within prior 7 years).

THE ALASKA FAMILY LEAVE ACT (AFLA) requires covered public employers to provide up to 18 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have been employed for a covered employer for at least 35 hours a week for at least six consecutive months or for at least 17.5 hours a week for at least 12 consecutive months immediately preceding the leave, and if there have been at least 21 employees within 50 road miles during any period of 20 consecutive workweeks in the preceding two calendar years.

MILITARY FAMILY LEAVE is a FMLA amendment, which includes 2008 and 2010 provision that has the same eligibility requirements and job protection provided by FMLA. This amendment allows an employee to take up to 12 weeks of leave in a 12 month period for "any qualifying exigency" of a military member who is on covered active duty and is a qualified family member. This amendment also allows an employee to take up to 26 weeks of leave in a 12 month period to care for a covered servicemember (qualified family member) recovering from a serious illness or injury sustained in the line of duty while on active duty. A "covered servicemember" is defined as a member in the Armed Forces (including the National Guard or Reserves) or a veteran who was active in the Armed Forces within the last five years.

REASONS FOR TAKING LEAVE: Unpaid leave must be granted for any of the following reasons:

- ° to care for the employee's child after birth, or placement for adoption or foster care;
- ° to care for the employee's spouse, son or daughter, or parent who has a "serious health condition";
- ° because of a qualifying exigency arising out of the fact that your spouse; son or daughter, or parent is on covered active duty or call to covered active duty status with the Armed Forces;
- ° because you are the spouse; son or daughter; parent; next of kin of a covered servicemember with a serious injury/illness; or
- ° for a serious health condition that makes the employee unable to perform the employee's job.

*At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION: The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- ° The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- ° An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense), periodic updates, and a fitness for duty report to return to work.

JOB BENEFITS AND PROTECTION:

- ° For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group plan." There is no similar requirement under AFLA.
- ° Upon return from FMLA or AFLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- ° The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

ENFORCEMENT:

- ° Employees covered by a collective bargaining agreement may follow the complaint procedure set out in their respective agreements.
- ° The U.S. Department of Labor is authorized to investigate and resolve complaints of violations of FMLA. The Alaska Department of Labor is authorized to investigate and resolve complaints of violations of AFLA.
- ° An eligible employee may bring civil action against an employer for violations of FMLA. FMLA 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.

UNLAWFUL ACTS BY EMPLOYERS: FMLA makes it unlawful for any employer to:

- ° Interfere with, restrain, or deny the exercise of any right provided under FMLA.
- ° Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

EMPLOYEE INFORMATION SHEET

This information is provided for the employee's convenience. Please refer to the College's FMLA policy (10.11) for additional details.

ELIGIBILITY: To be eligible for **FML**, the employee must have been employed by Iisagvik College for at least one year and for 1,250 hours over the previous 12 months. The 12 months of service need not be consecutive (within prior 7 years).

AFL: To be eligible for **AFL**, the employee must have been employed by the College for at least 35 hours a week for at least six consecutive months or for at least 17.5 hours a week for at least 12 consecutive months immediately preceding the leave. The employee must work at a worksite where the College maintains at least 50 part-or full-time employees on the payroll within 75 road miles of the worksite where the employee requesting the leave is employed. If the worksite does not meet these size thresholds, the employee may use accrued personal leave and request additional unpaid leave (not governed by FMLA) as provided in this Handbook. *Periods of leave, holidays and non-working days do not count towards eligibility.*

DURATION AND NOTICE: FML leave may include up to 12 workweeks during a 24-month period, or up to twenty-six (26) workweeks of leave within a single 12-month period to care for a covered servicemember who is recovering from a serious injury or illness incurred in the line of duty while on active duty.

AFLA leave may include up to 18 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons.

If FML leave is taken for the birth, foster placement or adoption of the employee's child, it must be concluded within 12 months following the birth, adoption or placement. If possible, if **you foresee taking FML leave, you should provide at least thirty (30) days advance notice**, as in the case of birth of a child or a planned medical treatment. For events which are unforeseeable, notify the College, at least verbally, as soon as you learn of the need for leave.

PLANNING: Employees requiring foreseeable, planned, medical treatment or supervision must make every effort to schedule such treatment or supervision to avoid disruption to their work schedules. Employees who have been granted medical leave of an unspecified duration must report to or call their supervisor once each week to inform the College of their medical status, or on such schedule as the employee and supervisor agree.

PAY STATUS DURING FML/AFL LEAVE: Approved FMLA and AFLA leave includes a period of both paid and unpaid leave. If the employee has no accrued personal leave, FML/AFL leave is unpaid. If the employee has accrued personal leave, the employee must use and exhaust all personal leave prior to taking leave without pay. Use of paid leave does not extend the duration of FML/AFL leave. For example, if an employee has four weeks of personal leave accrued, and needs 12 full weeks of FML, the first four weeks of leave would be paid, but the remaining 8 weeks of FML would be unpaid. No personal leave will accrue and no holidays will be paid during unpaid FML/AFL leave. An application for FML/AFL leave is automatically deemed to be an application to use personal leave to the extent it is available, and to request unpaid leave for the remaining period of eligibility.

CONTINUED HEALTH PLAN COVERAGE: During approved FML leave, the College continues the employee's participation in the College's group health plans, on the same terms as if the employee were still actively working. The employee should contact Human Resources in a timely manner to make arrangements for paying the employee's portion of the employee's or dependent's coverage. Under certain circumstances, if the employee fails to return from the leave, the College may recover any health premiums paid by the College on the employee's behalf during unpaid period of the leave. The reason for failure to return must be other than the recurrence or continuation of the health condition that brought about the leave or other circumstances beyond the employee's control.

EMPLOYEE CHECK LIST

- A Human Resources representative must sign and date the completed FML Request form.
- Provide Physician's Certifications and Leave Request to the FMLA form.
- Provide a 30-day advance notice of the need to take AFL/FML leave when the need is foreseeable (e.g., scheduled surgery or pregnancy).
- Provide notice "as soon as practicable" when the need to take AFL/FML is not foreseeable (e.g., emergency, unplanned medical treatment).
- Submit the completed paperwork to the Human Resources Office.

FOR ADDITIONAL INFORMATION: *Contact your Human Resources Office at 852- 18738*

FAMILY MEDICAL LEAVE REQUEST

Employee: _____
Department: _____
Job Title: _____

Date: _____
Supervisor: _____
Year of Hire: _____

ELIGIBILITY:

1. **AFLA:** During the past 6 months, have you worked at least 35 hours a week for at least 6 consecutive months or at least 17.5 hours a week for at least 12 consecutive months? _____ Yes _____ No

2. **FMLA:** Have you worked for the College for at least one year and for 1,250 hours over the past 12 months? (The 12 months of service need not be consecutive.) _____ Yes _____ No

3. Have you previously received medical or family leave? If yes, provide information below:

Dates of Leave: From: _____ to _____

Purpose of Leave: _____

4. Leave is requested for:

- | | |
|---|---|
| <input type="checkbox"/> Employee's serious health condition | <input type="checkbox"/> Birth or placement for adoption of a child |
| <input type="checkbox"/> Employee's spouse, child or parent's
Serious health condition | <input type="checkbox"/> Placement for foster care of a child |
| <input type="checkbox"/> Qualifying military exigency | <input type="checkbox"/> Pregnancy |
| | <input type="checkbox"/> Covered servicemember's serious illness or
injury |

5. What is the condition?

6. Leave requested:

First day of leave: _____ Last Day of Leave: _____ Return to work Date: _____

Total Number of requested
days/hours: _____

- ☐ I request intermittent leave according to the following schedule:

- ☐ I request a reduced leave schedule according to the following schedule:

7. Determination:

___ I understand that a final determination requires the receipt of a completed "Certification of Health Care Provider."

On _____ HR provided the Certification of Health Care Provider form to the employee.

Comments: _____

Employee Statement:

I agree to return to work on the following date: _____

If circumstances change such that I will not be able to return to work on that date, I agree to inform my supervisor by submitting a Notice to Employer of Changes in Approved Medical or Family Leave form. I understand that my benefits will continue during my leave and that I must arrange to pay my share of applicable premiums.

Signature: _____ Date: _____

To Be Completed by Human Resources

Staff member was hired on: _____

Staff member is: ☐ Full Time
☐ Part Time

Previous Family or Medical Leave:

From: _____ To: _____ **Total time taken:** _____

Meets Qualifications: Yes _____ No _____

Leave is Approved: Yes _____ No _____ ☐ FLA ☐ ALA

Leave is Denied: Yes _____ No _____ ☐ FLA ☐ ALA

Leave is denied for the following reasons: _____

**Human
Resources** _____
Signature

	Date		Date
Week 1	\ \	Week 10	\ \
Week 2	\ \	Week 11	\ \
Week 3	\ \	Week 12	\ \
Week 4	\ \	Week 13	\ \
Week 5	\ \	Week 14	\ \
Week 6	\ \	Week 15	\ \
Week 7	\ \	Week 16	\ \
Week 8	\ \	Week 17	\ \
Week 9	\ \	Week 18	\ \

Calculate by hour if adjustments to FLSA status were made: _____