



Human Resource Policy Manual

Subject: Family and Medical Leave Act (FMLA) Policy

HR Policy: 610

Effective Date: 05/01/05

Revision: Revision Date: Page 2 of 5

Board of Directors Approval: 03/12/05

MSHS Policy Council Approval: 04/02/05

This Policy has been drafted as a guideline for our employees. Final interpretation of the items discussed will be governed by the applicable procedure statements and the Human Resources Department. It shall not be construed to form a contract between our employees and the operating units of Texas Migrant Council, Inc. Texas Migrant Council, Inc. reserves the right to alter, rescind, or change any part or section of this Policy unilaterally and without prior notice.

1.0 PURPOSE

It is the policy of Texas Migrant Council, Inc. to grant up to twelve (12) weeks of family and medical leave during any twelve-month (12) period to eligible employees in accordance with the Family and Medical Leave Act. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

2.0 SCOPE

This policy is for all employees at all locations who are eligible for FMLA leave based on the requirements outlined in the Family and Medical Leave Act.

3.0 ELIGIBILITY

3.1 To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

3.1.1 The employee must have worked for Texas Migrant Council, Inc. for twelve (12) months or fifty-two (52) weeks. The twelve (12) months or fifty-two (52) weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.

3.1.2 The employee must have worked at least 1250 hours during the twelve-month period immediately before the date when the leave is requested to commence. The Fair Labor Standards Act (FLSA) does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not count in determining the 1250 hours eligibility test for an employee under FMLA.



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4.0 TYPE OF LEAVE COVERED

4.1 Eligible employees may be granted a Family or Medical Leave consisting of accrued paid leave and unpaid leave for the following reasons:

4.1.1 the birth of the employee's child and in order to care for the child;

4.1.2 the placement of a child with the employee for adoption or foster care;

4.1.3 to care for an employee's spouse, child or parent who has a serious health condition; or

4.1.4 a serious health condition that renders the employee incapable of performing the functions of his or her job.

5.0 FMLA LEAVE

5.1 In all cases, an employee requesting a leave must complete a "Leave of Absence Request" form; which is available from a supervisor. The completed Leave of Absence Request must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.

5.2 An employee intending to take Family or Medical Leave because of an expected birth or placement of a child for adoption/foster care, or because of a planned medical treatment, must submit a Leave of Absence Request at least thirty (30) days before the leave is to begin. If leave is to begin earlier than thirty (30) days, an employee must give notice to the Company as soon as practicable.

5.3 Family or Medical Leave will consist of appropriate accrued paid leave and unpaid leave. If leave is requested for an employee's own serious health condition, the employee must initially use all of his or her accrued paid leave. An employee must first use any accrued sick days followed, if necessary, by accrued vacation. The remainder of the leave period will then consist of unpaid leave. The aggregate time off on paid and/or unpaid leave may not exceed six (6) months unless the employee obtains an extension from the Company.

5.4 If leave is requested for care of the employee's child following birth or placement for adoption/foster care, or to care for the employee's spouse, child or parent with a serious health condition, an employee must initially use all of his or her accrued paid vacation.



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The remainder of the leave period will then consist of unpaid leave. The total aggregate time off on paid and/or unpaid leave for these reasons may not exceed twelve (12) weeks in any calendar year.

- 5.5** An employee who requests leave based on the serious health condition of the employee or the employee's spouse, child or parent must also submit a medical certification form completed by a health care provider. The certification must state the date on which the health condition commenced the probable duration of the condition, and the appropriate medical facts regarding the condition. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.
- 5.6** If the employee is needed to care for a spouse, child or parent, the certification must so state, along with an estimate of the amount of time the employee will be needed. Medical certification forms are available from a supervisor or the Human Resources Department.
- 5.7** During a period of family leave, and during the first twelve (12) weeks of a medical leave for an employee's own serious health condition, an employee will be retained on the Company's health insurance plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he/she made to the plan before taking leave. The contributions must be paid monthly to the Human Resources Department. Any changes to levels of coverage, benefits, or premium contributions will be applied to an employee on leave in the same manner as to active employees. An employee must reimburse the Company for any premium that was paid for maintaining coverage for the employee if the employee fails to return from leave, unless the failure to return is due to a serious health condition which would entitle the employee to Family or Medical Leave or other circumstances beyond the employee's control.
- 5.8** Following the first twelve (12) weeks of a medical leave for an employee's own serious health condition, the employee is responsible for the full premium cost of health insurance coverage.
- 5.9** During a leave, an employee is not entitled to the accrual of any seniority or employment benefits that would have accrued if not for the taking of leave. An employee who takes family or medical leave will not lose any employment benefits that accrued before the date leave began.



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- 5.10** An employee eligible for Family or Medical Leave -- with the exception of those employees designated as "key employees" -- will be restored to his/her former position or to a position with equivalent pay, benefits, and other terms and conditions of employment. The Company cannot guarantee that an employee will be returned to his/her former job. A determination as to whether a position is an "equivalent position" will be made by the Company.
- 5.11** An extension of a medical leave and a release for return to work is required to be in writing, and signed by a physician. Employees off work on a disability leave must keep the Company advised as requested by the Company of his/her medical status to have a leave extended.
- 5.12** When an employee completes a medical leave of absence, the Company may elect to have the returning employee examined by a physician to confirm the ability to return and perform the job. A returning employee must present a doctor's release to return to full duties. The Company reserves the right to authorize a second medical opinion when deemed necessary.
- 5.13** A qualified individual with a disability may be permitted to continue on a medical leave of absence past the normal six month limitation if such an extension is necessary to reasonably accommodate the disability and it imposes no undue hardship on Texas Migrant Council, Inc.
- 5.14** Family and Medical Leave will run concurrent with any other Leaves of Absence (e.g. Worker's Compensation Leave, etc.).

6.0 INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE

- 6.1** An employee may take FMLA leave in twelve (12) consecutive weeks, may use the FMLA leave intermittently, or under certain circumstances may use the FMLA leave to reduce the work week or work day, resulting in a reduced work schedule. In all cases, the FMLA leave may not exceed a total of twelve (12) workweeks over a twelve (12) month period.
- 6.2** The Company may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced work schedule.



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- 6.3** For the birth, adoption or foster care of a child, the Company and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one (1) year of the birth or placement of the child.
- 6.4** If the employee is taking leave for a serious health condition or because of a serious health condition of a family member, the employee should try and reach agreement with the Company before taking intermittent leave or working a reduced work schedule.
- 6.5** The Company may require certification of the medical necessity as discussed in paragraph 5.1 of this policy.