

BOARD AGENDA ITEM

June 14, 2022

SUBJECT:

Changes to File GCC-E Your Rights Under The Family and Medical Leave Act of 1993

BACKGROUND INFORMATION:

File GCC-E defines employee rights and employer responsibilities under the Family and Medical Leave Act of 1993 as displayed on the federally required workplace posting.

ADMINISTRATIVE CONSIDERATION:

The proposed changes update language consistent with the Family Medical Leave Act (FMLA) and in compliance with changes to the federally required workplace posting.

RECOMMENDATION:

Approve changes to File GCC-E Your Rights Under The Family and Medical Leave Act of 1993 .

ATTACHMENTS:

File GCC-E Your Rights Under The Family and Medical Leave Act of 1993

PREPARED BY:

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YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act (FMLA) requires this district to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for the district for at least one year and for 1,250 hours over the previous 12 months, and there are at least 50 employees within 75 miles.

Reasons for taking leaveLeave Entitlements

The district must grant unpaid leave for any of the following reasons. Eligible employees can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- to care for the employee's child after birth or placement for adoption or foster care;
- to bond with a child (leave must be taken within one year of the child's birth or placement);
- to care for the employee's spouse, son, daughter or parent who has a qualifying serious health condition;
- for a qualifying serious health condition that makes the employee unable to perform the essential functions of employee's job;
- for qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

At the district's or the employee's option, certain kinds of paid leave may be substituted for unpaid leave. The district requires the use of accrued paid leave while taking FMLA leave.

Advance notice and medical certificationRequesting leave

The district may require the employee to provide advance leave notice and medical certification. The district may deny the leave if the employee does not meet the notice requirements.

- The employee ordinarily must provide 30 days advance notice when the leave is foreseeable. Generally, employees must give 30-days' advance notice of the need for FMLA Leave. If it is not possible to give 30-days' notice, an employee must notify the district as soon as possible and follow the usual procedures.
- Employees do not have to share a medical diagnosis, but must provide enough information to the district so it can determine if the leave qualifies for FMLA protection. Employees must inform the district if the need for the leave is for a reason which FMLA leave was previously taken or certified.
- The district may require medical certification or periodic recertification to support a request for leave because of a serious health condition and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

Job benefits and protection

- For the duration of the FMLA leave, the district will maintain the employee's health coverage under the district's group health insurance plan.
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms and conditions.
- An employee's use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

The School District of Aiken County

District Responsibilities

- Once the district becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the district must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the district must provide a reason for ineligibility.
- The district must notify employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

Unlawful acts by employers

FMLA makes it unlawful for the district to do the following.

- 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

Enforcement

- The U.S. 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.

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.

For additional information contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

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