

Shadowfax

Title	Family and Medical Leave Policy
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Associated Policies	
Associated Procedures	HR.3016.001.000
Associated Documents	

I. POLICY STATEMENT

Shadowfax Corporation (Shadowfax) will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible staff. 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.

II. PURPOSE

The purpose of this policy is to provide staff members with a general description of their FMLA rights. Providing protected leave to our staff under the Family and Medical Leave Act (FMLA) helps to balance the demands of work and home.

III. SCOPE

This policy applies to all staff members of Shadowfax.

IV. GENERAL

The Department of Labor Wage and Hour Division is responsible for enforcing the Family and Medical Leave Act.

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V. POLICY

A. Eligibility

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

- 1) The staff member must have worked for the corporation for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the corporation's intention to rehire the staff member after the service break.
- 2) The staff member must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. The 1,250 hours do not include time spent on paid or unpaid leave. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for a staff member under FMLA.
- 3) The staff member must work in a worksite where 50 or more staff members are employed by the corporation within 75 miles of that office or worksite. The distance is to be calculated by using available transportation by the most direct route.

B. Type of Leave Covered

To qualify as FMLA leave under this policy, the staff member must be taking leave for one of the reasons listed below:

1. The birth of a child or placement of a child with the staff member for adoption or foster care.
2. To care for a spouse, child or parent who has a serious health condition.
3. For a serious health condition that makes the staff member unable to perform the essential functions of his or her job.
4. For any qualifying exigency arising out of the fact that a spouse, child or parent is a military member on covered active duty or on call to covered active-duty status.
5. To care for a covered service member with a serious injury or illness.

A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity

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or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

(4) Staff are to use all accrued PTO and sick time before being able to take unpaid FMLA

(5) Qualifying exigencies leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.

A staff member whose spouse, son, daughter, or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

- a) short-notice deployment
- b) military events and activities
- c) childcare and school activities
- d) financial and legal arrangements
- e) counseling
- f) rest and recuperation
- g) post-deployment activities, and
- h) additional activities that arise out of active duty, provided that the corporation and staff member agree, including agreement on timing and duration of the leave.

Eligible staff are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability

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retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible staff may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

In order to care for a covered family member which must be either a spouse, son, daughter, parent, or next of kin of a covered ...

- a) A “son or daughter of a covered” means the covered service member’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.
- b) A “parent of a covered service member” means a covered service member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents “in law.”
- c) Under the FMLA, a “spouse” means a husband or wife, including those in same-sex marriages, which were made legal in all 50 United States as of June 26, 2015.
- d) The “next of kin of a covered service member” is the nearest blood relative, other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin. For example, if a covered service member has three siblings and has

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not designated a blood relative to provide care, all three siblings would be considered the covered service member's next of kin. Alternatively, where a covered service member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member's next of kin. A corporation is permitted to require a staff member to provide confirmation of covered family relationship to the covered service member pursuant to § 825.122(k).

“Covered active duty” means:

- a) “Covered active duty” for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.
- b) “Covered active duty or call to covered active-duty status” in the case of a member of the Reserve components of the Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, in accordance with 29 CR 825.102.

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the staff member’s 12-week maximum of FMLA leave in a 12-month period.

Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran. A staff member whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to take care of leave to care for that service member.

Next of kin is defined as the closest blood relative of the injured or recovering service member.

The term “covered service member” means:

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- a) A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- b) A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

The term “serious injury or illness” means:

- a) In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and
- b) In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.
- c) Outpatient status, with respect to a covered service member, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

C. Amount of Leave

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An eligible staff member can take up to 12 weeks for the FMLA circumstances (1) through (3) above under this policy during any 12-month period. The corporation will measure the 12-month period as a fixed leave year based on the staff member's date of hire. An eligible staff member can take up to 26 weeks for the FMLA circumstance (4) and (5) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the corporation will measure the 12-month period FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the corporation and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the corporation and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

D. Staff Member Status and Benefits During Leave

While a staff member is on leave, the corporation will continue the staff member's health benefits during the leave period at the same level and under the same conditions as if the staff member had continued to work.

If the staff member fails to return to work at the conclusion of Family and Medical leave, the staff member will be required to reimburse the Corporation for the full cost of group health insurance premiums paid by Shadowfax on the staff member's behalf during the staff member's FMLA leave unless the failure to return to work is the result of:

- the continuation, recurrence or onset of a serious health condition which would entitle the staff member to FMLA leave;
- the continuation, recurrence or onset of a covered service member's serious injury or illness which would entitle the staff member to FMLA leave; or
- other circumstances beyond the staff member's control.

Staff members are not presumed to have returned to work until they have been back at their job for at least 30 calendar days.

If the staff member chooses not to return to work for reasons other than a continued serious health condition of the staff member or the staff member's family member or a

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circumstance beyond the staff member's control, the corporation will require the staff member to reimburse the corporation the amount it paid for the staff member's health insurance premium during the leave period.

Under current corporation policy, the staff member pays a portion of the health care premium. While on paid leave, the corporation will continue to make payroll deductions to collect the staff member's share of the premium.

While on unpaid leave, the staff member must continue to make this payment, either in person or by mail. The payment must be received by Shadowfax the 15th day of each month. If the payment is 30 days late a notification letter is sent for payment. If more than 30 days late, the staff member's health care coverage may be dropped for the duration of the leave. The corporation will provide 15 days' notification prior to the staff member's loss of coverage.

If the staff member contributes to a life insurance or disability plan, the corporation will continue making payroll deductions while the staff member is on paid leave. While the staff member is on unpaid leave, the staff member may request continuation of such benefits and pay his or her portion of the premiums, or the corporation may elect to maintain such benefits during the leave and pay the staff member's share of the premium payments. If the staff member does not continue these payments, the corporation may discontinue coverage during the leave. If the corporation maintains coverage, the corporation may recover the costs incurred for paying the staff member's share of any premiums, whether or not the staff member returns to work.

E. Staff member Status after Leave

A staff member who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the corporation's response to the FMLA request. Generally, a staff member who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The corporation may choose to exempt certain key staff members from this requirement and not return them to the same or similar position.

F. Use of Paid and Unpaid Leave

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A staff member who is taking FMLA leave because of the staff member's own serious health condition or the serious health condition of a family member must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.

Disability leave for the birth of the child and for a staff member's serious health condition, to the extent that it qualifies, will be designated as FMLA leave and will run concurrently with FMLA. For example, if a corporation provides six weeks of pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the staff member's 12-week entitlement. The staff member may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. A staff member who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

A staff member who is using military FMLA leave for a qualifying need must use all paid vacation and personal leave prior to being eligible for unpaid leave. A staff member using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the corporation's sick leave policy) prior to being eligible for unpaid leave.

G. Intermittent Leave or a Reduced Work Schedule

The staff member may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

The corporation may temporarily transfer a staff member to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the staff member or staff member's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

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For the birth, adoption or foster care of a child, the corporation and the staff member must mutually agree to the schedule before the staff member 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 year of the birth or placement of the child.

If the staff member is taking leave for a serious health condition or because of the serious health condition of a family member, the staff member should try to reach agreement with the corporation before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the staff member must prove that the use of the leave is medically necessary.

H. Certification for the Staff Member's Serious Health Condition or a Family Members Serious Health Condition

The corporation will require certification for the staff member's serious health condition. The staff member must respond to such a request generally within 15 calendar days after the employer's request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

The corporation may directly contact the staff member's health care provider for verification or clarification purposes using a health care professional, an HR professional, or management official. The corporation will not use the staff member's direct supervisor for this contact. Before the corporation makes this direct contact with the health care provider, the staff member will be given an opportunity to resolve any deficiencies in the medical certification.

The corporation has the right to ask for a second opinion if it has reason to doubt the certification. The corporation will pay for the staff member to get a certification from a second doctor, which the corporation will select. The corporation may deny FMLA leave to a staff member who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion.

I. Certification of Qualifying Exigency for Military Family Leave

The corporation will require certification of the qualifying exigency for military family leave. The staff member must respond to such a request generally within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide

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certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

J. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

The corporation will require certification for the serious injury or illness of the covered service member. The staff member must respond to such a request generally within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service member.

K. Recertification

The corporation may request recertification for the serious health condition of the staff member or the staff member's family member no more frequently than every 30 days unless circumstances have changed significantly, or if the corporation receives information casting doubt on the reason given for the absence, or if the staff member seeks an extension of his or her leave. Otherwise, the corporation may request recertification for the serious health condition of the staff member or the staff member's family member every six months in connection with an FMLA absence. The corporation may provide the staff member's health care provider with the staff member's attendance records and ask whether need for leave is consistent with the staff member's serious health condition.

RETURN FROM FMLA:

A staff member who takes leave under this policy may be asked to provide a fitness or duty clearance from the health care provider (when the FMLA is for his/her own serious health condition for example). This requirement will be included in Shadowfax's response to the FMLA request. Generally, a staff member who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. Shadowfax may choose to exempt certain key staff members from this requirement, and not return them to the same or similar position.

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VI. ENFORCEMENT

Failure to follow the Family and Medical Leave policy and procedure may result in a delay in processing or a denial of the leave.

VII. OVERSIGHT

Shadowfax Compliance Committee or their designee(s) (the "Approved By") will be in charge of the administration of this Policy. The Approved By responsibilities include:

1. Identifying the action steps to come into compliance and directives to maintain compliance and implement the action steps.
2. Periodically reviewing this Policy and monitoring compliance to it.
3. Training responsible parties on their obligations under the Policy.

Revision History

Name	Date	Reason for Changes	Version