



**Policy Number:** 401

**Issuance Date:** June 1, 2017

**Subject:** Family & Medical Leave Act (FMLA)

**Revised Date:** May 5, 2025

## Purpose

The Family Medical Leave Act allows eligible associates to take unpaid, job-protected time away from work for specified medical and/or military reasons related to either the associate or a qualifying family member. In the event of any conflict between this policy and applicable state law and/or local ordinance, associates will be afforded all rights required by their state of residence.

The "Definitions" section below will define key terms referenced within this policy.

## Eligibility Requirements

In order to be eligible to take leave under the FMLA, an associate must:

- have been employed by the Company for at least 12 months (not necessarily continuous);
- have worked at least 1,250 hours during the 12 months period immediately prior to the date their leave is scheduled to begin, except if associate is requesting military leave; and
- be employed at a company where there are at least 50 associates within 75 miles (measured in road miles) of the largest work site where the associate requesting the leave is employed.

## Approved Uses

Eligible associates are entitled to twelve work weeks of leave in a 12-month period for:

- the birth and to care for a newborn child within one year of birth.
- the placement with the associate of a child for adoption or foster care and to care for the newly placed child within one year of placement.
- to care for the associate's legal spouse, child, or parent who has a serious health condition.
- a serious health condition that makes the associate unable to perform the essential functions of his or her job.
- any qualifying exigency arising out of the fact that the associate's legal spouse, son, daughter, or parent is a covered military member on "covered active duty".
- to care for a covered service member with a serious injury or illness if the eligible associate is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

An eligible associate who is the spouse, child, parent or next of kin of a covered service member with a serious injury or illness may take up to a total of up to 26 workweeks of **unpaid** leave during a single 12-month period to care for the servicemember.

\*Dwyer Franchising LLC, d/b/a Neighborly; Glass Operating LLC, d/b/a Portland Glass; Neighborly Local Operations LLC, and their affiliated companies (collectively, the "Company" or "Neighborly")

## **Leave Types**

Under FMLA regulations, associates may take leave continuously or on an intermittent basis if medically necessary. Associates will be required to provide a note from the health care provider documenting the need for either continuous or intermittent leave.

### ***Continuous Leave***

Continuous FMLA leave means an associate takes a period of time off work in a single, consecutive timeframe, without any breaks or interruptions.

### ***Intermittent Leave***

Under intermittent leave, an associate may take leave in separate blocks of time or on a reduced schedule. Intermittent leave is only permitted if it is medically necessary. Examples include, taking several days per month or working a part time schedule to accommodate medical appointments or recovery time post treatment.

When intermittent leave is needed for planned medical treatment, the associate must make a reasonable effort to schedule treatment so as not to unduly disrupt the Company's operations. The Company reserves the right to transfer an associate on intermittent leave temporarily to an alternative job with equivalent pay and benefits that accommodate recurring periods of leave better than the associate's regular job.

## **Pay Considerations**

FMLA leaves are not paid, although associates may qualify for income replacement through short term disability or state leave programs. If the associate does not receive income replacement benefits, AND the associate has any accrued, unused PTO time, the PTO must be applied during a leave of absence. Once PTO has been exhausted, the remaining time off will be unpaid.

## **Procedures**

### ***Associate Responsibilities***

All associates requesting FMLA leave must provide verbal or written notice of the need for the leave to their manager or People Services. Within five business days of the Company receiving this notification, the associate will receive further instruction and information, including the DOL Notice of Eligibility and Rights.

To be eligible for an FMLA leave, except in the case of emergencies, an associate must submit a written request for an FMLA leave to the Company's People Services Department at least 30 days before the first day of your requested leave. If your FMLA leave is due to an emergency, you must notify People Services as soon as practical under the circumstances (generally within one or two business days).

An associate does not have to share a medical diagnosis but must provide sufficient information to the Company regarding your leave request for the Company to reasonably determine whether the FMLA may apply to the leave request.

An associate's written request must include the following information:

- the date on which the associate's leave will begin;
- the reason for the associate's leave (e.g., birth or placement of a child or serious health

condition of the associate's parent, legal spouse, child or self);

- the anticipated duration of the associate's leave;
- whether the associate intends to return to work with the Company at the conclusion of their leave; and
- if the leave is for the serious health condition of the associate's parent, legal spouse, child or self, a medical certificate must be completed by an appropriate health care provider. Failure to provide such certification will result in the delay and/or denial of an associate's FMLA leave.

### **Employer Responsibilities**

When an associate requests leave, the Company will inform the associate by email whether they are eligible under the FMLA. The Company may request certification from a health care provider to verify medical leave and may request certification of a qualifying exigency. If the associate is eligible for FMLA leave, the associate will be given a written notice that includes details on any additional information they will be required to provide. If the associate is not eligible under the FMLA, the Company will provide the associate with a written notice indicating the reason for ineligibility.

If leave will be designated as FMLA-protected, the Company will inform the associate in writing by email and provide information on the amount of leave that will be counted against the associate's 12- or 26-week entitlement.

Within five business days after the associate has submitted the appropriate health care certification form, that associate will receive a written response (DOL Designation Notice) by email, indicating whether the request has been approved, denied or further information needed.

The Company will not interfere with an associate's FMLA rights. Associates will not be punished for exercising rights under FMLA.

### **Medical Certification for Associate's Serious Health Condition**

If the associate is requesting leave because of the associate's own or a covered individual's serious health condition, the associate must obtain appropriate medical certification from the relevant healthcare provider. If the associate provides at least 30 days' notice of medical leave, they should provide the medical certification before leave begins.

People Services will notify the associate of the requirement for medical certification and will provide the applicable Medical Certification forms.

The associate must respond to the health care certification request from the Company within 15 days or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

The Company may require a second or third medical opinion (at the Company's expense).

The Company may also require periodic recertification of a serious health condition.

### **Maintenance of Health Benefits**

While an associate is on an approved FMLA leave, the Company will maintain the associate's group health insurance coverage on the same terms provided before the leave was taken. The associate must make payment arrangements for applicable health insurance premiums while on leave. If the associate fails to make any of the premium payments, they will be required to

reimburse the Company for any of those payments that may be made by the Company. If an associate exhausts their FMLA and fails to return to work, they will no longer be eligible for active insurance. The associate will be offered COBRA. If the associate elects COBRA, they will be required to pay both the employer and associate portion of premiums.

### **Job Reinstatement**

Upon return from FMLA leave, the associate will be reinstated to their original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. In addition, an associate's use of FMLA leave will not result in the loss of any employment benefit that the associate earned or was entitled to before using family medical leave.

The associate's right to reinstatement does not protect the associate from business decisions made while the associate is on leave, such as reorganizations, moves or closures. For example, if an associate on FMLA leave would have been laid off, or if the associate's job has been eliminated during the leave and there is no equivalent or comparable job available, then the associate would not be entitled to reinstatement.

### **Return to Work**

Prior to returning from an FMLA leave for your own serious health condition, you will be required to provide the Company with a certificate of fitness for duty from your health care provider. This work release will inform the Company of any applicable work restrictions, subject to review before accommodations are granted.

### **Failure to Return**

An associate who is on a continuous leave of absence, for any reason other than approved military leave, must return to work after three (3) months from the last date worked. If unable to return, a transfer to another leave type will be considered. If the associate is not eligible for another leave type, employment with the Company may be terminated.

### **Other Considerations**

#### ***Exemption for Highly Compensated Associates***

If you are a key associate of the Company (an exempt salaried associate in the top 10% in salary), within a 75-mile radius of your worksite you may not be eligible for reinstatement following your FMLA leave if it is determined that your reinstatement would result in substantial and grievous economic injury to the Company. If it is determined that your reinstatement would cause such injury, you will be notified of that fact in writing prior to your leave start date and allowed a reasonable time to return to work in order to avoid the denial of reinstatement. If you elect not to return to work after receiving that notice, the Company will continue to maintain your group health benefits during the remainder of your FMLA leave, but you may not be eligible for reinstatement following your FMLA leave. Contact People Services if you are unsure if you fall into the Highly Compensated Associates category.

#### ***Married Couples***

When the associate and their legal spouse are both employed by the Company, they are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of

a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered service member with a serious injury or illness is also used).

FMLA leave taken for the birth, adoption or foster care placement of a child does not have to be taken in one continuous period of time; however, any such leave taken must be concluded within one year of the birth or placement of the child with the associate.

## Definitions

- **12-month period:** calculated based on a “rolling” 12-month period measured backward from the date the associate uses any FMLA leave, except for military caregiver leave which is calculated using a rolling-forward method. All time off that qualifies as FMLA leave will be counted against the associate’s FMLA leave entitlement.
- **Child:** a child either under 18 years of age, or older than 18 who is incapable of self-care because of a mental or physical disability, for whom the associate has actual day-to-day responsibility for care, including a biological, adopted, foster or stepchild, legal ward, or a child of a person standing in loco parentis. For purposes of a son or daughter on covered active duty or called to covered active duty, or for a service member family leave, the child may be of any age.
- **Parent:** a biological, adoptive, step or foster parent of an associate or an individual who stood in place of a parent to an associate when the associate was a child.
- **Serious health conditions** that qualify for FMLA leave are:
  - conditions requiring an overnight stay in a hospital or other medical care facility;
  - conditions that incapacitate an associate or their family member (for example, unable to work or attend school) for more than three consecutive days and have ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication);
  - chronic conditions that cause occasional periods when the associate or their family member are incapacitated and require treatment by a health care provider at least twice a year; and
  - pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).
- **Essential functions:** functions that an associate who holds the position must be able to perform with or without a reasonable accommodation.
- **Reasonable accommodation:** is any change or adjustment to a job or work environment that permits a qualified applicant or associate with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by associates without disabilities.
- **Qualifying exigency** includes:
  - notification of a call to covered active duty seven or fewer days from date of deployment;
  - military events and related activities, including post-deployment activities (e.g. official ceremonies, support programs, counseling, etc. related to covered active duty or a call to such);
  - attending to childcare and school activities;

- attending to financial and legal matters;
  - to spend up to five days with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment; and
  - any additional activities related to the call to covered active duty otherwise agreed to by the employer and associate
- **Covered active duty:** duty during the deployment of the member of the Regular Armed Forces to a foreign country. For a member of the Reserve components of the Armed Forces, **covered active duty** means duty during the deployment to a foreign country under a Federal call or order to active duty in support of a contingency operation.
  - **Covered service member:** 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.
  - **Covered veteran:** an individual 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), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible associate takes FMLA leave to care for the covered veteran.

## Enforcement

This policy is subject to all state and federal laws. FMLA does not affect any federal or state law prohibiting discrimination nor does it supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

Associates can find more information about FMLA leave by calling 1-8666-487-9243 or visiting [dol.gov/fmla](http://dol.gov/fmla).

Any associate who fails to adhere to this policy may be subject to disciplinary action up to and including termination of employment.

The Company reserves the right to modify this policy at any time without notice.