



North American Lighting, Inc.

A **KOITO** Group Company

## Family and Medical Leave

**Policy Number:** PER-044

**Effective Date:** February 1, 2018

**Revision Date:** January 25, 2019

**PURPOSE:** North American Lighting (NAL) will provide Family and Medical Leave to its eligible employees. The company posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act on bulletin boards located in the company breakrooms.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you must contact Human Resources.

**POLICY:** Under this policy, North American Lighting (NAL) will grant up to 12 workweeks of leave during a 12-month period to eligible employees. 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.

### A. Eligibility

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

- 1) The employee must have worked for the company 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, stating the employer's intention to rehire the employee after the service break.
- 2) The employee 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-hour eligibility test for an employee under FMLA.

### B. Type of Leave Covered

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

- 1) The birth of a child and in order to care for that child.





- 2) The placement of a child for adoption or foster care and to care for the newly placed child.
- 3) To care for a spouse, child or parent with a serious health condition (described below).
- 4) The serious health condition (described below) of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

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 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.

Employees with questions about what illnesses are covered under this FMLA policy or under the company's sick leave policy are encouraged to consult with Human Resources.

A "spouse" means a husband or wife, including those in same-sex marriages as recognized and defined in each state.

A "son or daughter" is defined by the FMLA regulations as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time FMLA leave is to commence. The FMLA regulations provide separate definitions of "son or daughter" for its military family leave provisions that are not restricted by age.

A "parent" means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee. This term does not include parents "in law."

### **C. Amount of Leave**

An eligible employee can take up to 12 workweeks (480 hours) for the FMLA circumstances (1) through (4) above under this policy during any 12-month period. The company will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the company will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 workweeks (480 hours) of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

### **D. Spouses both Employed by the Company**

If a husband and wife both work for the company, they are eligible for a combined total of 12 workweeks (480 hours) of leave (rather than 12 workweeks each) for the birth/bonding of a healthy child. If a husband and wife both work for the company, they are not required to share the 12 workweeks of leave for their own serious health condition, the serious health condition of the spouse or their child.





## **E. Key Employees**

The company must allow a key employee, who may be indispensable to the operation of the company's business, to take a leave under FMLA. However, if the company determines it will suffer significant economic harm by reinstating the key employee to his/her same position at the end of his/her leave, the company may choose to place them into an alternate position upon returning from the leave. If the company feels that they may utilize the Key Employee provision, they will notify the employee.

## **F. FMLA Leave During Shutdown Periods**

If an employee is out of work on an approved FMLA leave during a shutdown period of one week or longer (such as the winter holiday shutdown), the shutdown days and any holidays that occur during the shutdown period will not be charged against his/her FMLA Leave time. Please also refer to Section K.

## **G. Coordination of Other Leaves and Paid Time Off with FMLA**

The company reserves the right to designate paid and unpaid leave as qualifying for FMLA.

FMLA leave may run concurrent with leave time covered under the company's Workers' Compensation Plan when the Workers Compensation injury/illness qualifies as a serious health condition.

FMLA leave will run concurrent with leave time covered under the company's Short Term Disability Plan. FMLA leave will also run concurrent with paid time off, when paired with a Leave Code, under this policy.

## **H. Employee Status and Benefits During Leave**

While an employee is on leave, the company will continue the employee's group health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the company may require the employee to reimburse the company the amount it paid for the employee's health insurance premium during the leave period.

Under current company policy, the employee pays a portion of the group health insurance premium as well as life and disability insurance if enrolled in those programs. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium(s). While on unpaid leave, the employee must continue to make this payment by personal check or the amount(s) owed will be tracked in arrears. This decision needs to be made by the employee at the beginning of the leave. If an employee chooses to make payments via check during leave, then all outstanding payments must be caught up before returning to work. If no decision has been made, then the employee will default into having the premium payment(s) held in arrears. Once the employee returns to work, double payments will be deducted from their future checks to catch up on the missed insurance premium payments. If an employee fails to cover their outstanding insurance balance or has not made arrangements to pay their balance within 30 days of the end of their approved leave, the employee's coverage may be terminated.





## **I. Employee Status After Leave**

An employee 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 employer's response to the FMLA request. Generally, an employee 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 company may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

## **J. Use of Paid and Unpaid Leave**

An employee who is taking FMLA leave **MUST** use his/her available paid time off above 40 hours during FMLA to cover any time not covered by disability benefits. This is usually the case to cover the waiting period (5 business days) before Short Term Disability goes into effect. Paid time off above 40 hours will be used throughout the duration of the employee's FMLA leave as required to cover any time not covered by disability benefits including intermittent FMLA. A maximum of 80 hours of paid time off will be utilized to cover FMLA in a rolling twelve-month period in increments of no less than one hour.

## **K. Intermittent Leave or a Reduced Work Schedule**

The employee may take FMLA leave in 12 consecutive workweeks (480 hours), 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.

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 schedule, in instances of when leave for the employee or employee'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.

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 year of the birth or placement of the child.

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

The employee **MUST** use his/her available paid time off above 40 hours during these types of intermittent FMLA leave. Paid time off that accrues above 40 hours will be used throughout the duration of the employee's FMLA leave. A maximum of 80 hours of paid time off will be utilized to cover FMLA in a rolling twelve-month period in increments of no less than one hour.

If a company-paid holiday occurs during an employee's FMLA leave, and the employee has used his/her paid time off to receive compensation on his/her regularly scheduled workdays immediately before and after the holiday, he/she is eligible to receive holiday pay for that holiday. In all other cases, the employee is not eligible to receive holiday pay while on an FMLA leave.





## **PROCEDURES:**

### **L. Procedure for Requesting FMLA Leave**

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to Human Resources. Within five business days after the employee has provided this notice, Human Resources will complete and provide the employee with the DOL Notice of Eligibility and Rights.

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the company's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

### **M. Designation of FMLA Leave**

Within five business days after the employee has submitted the appropriate certification form, Human Resources will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice.

### **N. Certification for the Employee's Serious Health Condition**

The company will require certification for the employee's serious health condition. The employee must respond to such a request 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. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition.

The company may directly contact the employee's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The company will not use the employee's direct supervisor for this contact. Before the company makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the company will obtain the employee's permission for clarification of individually identifiable health information.

The company has the right to ask for a second opinion if it has reason to doubt the certification. The company will pay for the employee to get a certification from a second doctor, which the company will select. The company may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the company will require the opinion of a third doctor. The company and the employee will mutually select the third doctor, and the company will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

The company will require a fitness for duty certificate prior to the employee returning to work.





## **O. Certification for the Family Member's Serious Health Condition**

The company will require certification for the family member's serious health condition. The employee must respond to such a request 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. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition.

The company may directly contact the employee's family member's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The company will not use the employee's direct supervisor for this contact. Before the company makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the company will obtain the employee's family member's permission for clarification of individually identifiable health information.

The company has the right to ask for a second opinion if it has reason to doubt the certification. The company will pay for the employee's family member to get a certification from a second doctor, which the company will select. The company may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the company will require the opinion of a third doctor. The company and the employee will mutually select the third doctor, and the company will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

## **R. Recertification**

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

## **S. Intent to Return to Work from FMLA Leave**

On a basis that does not discriminate against employees on FMLA leave, the company may require an employee on FMLA leave to report periodically on his/her status and intent to return to work.

## **T. Additional Leave of Absence**

An employee, who is unable to return to work due to his/her continued medical condition after exhausting the twelve (12) workweeks (480 hours) of FMLA leave under this policy and has a need for an additional leave of absence, may be eligible for a standard Leave of Absence or an accommodation under the Americans with Disabilities Act.

