

SECTION 26. **"FAMILY AND MEDICAL LEAVE ACT POLICY"**. In accordance with the Family and Medical Leave Act of 1993, as amended by the National Defense Authorization Act of 2008, Ashe County shall grant each eligible employee leave entitlements consistent with the provisions outlined in the Act. The terms used in this section, which are defined in the Act, shall have the meanings assigned to them therein.

(A) *Regular FMLA*: To be eligible to take leave under this section, the employee must: (1) Have been employed by Ashe County for at least 12 months; (2) Have been employed for **and actively performed** at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. The eligible employee is entitled to a total of 12 work-weeks of leave during any 12-month period. The term "12-month period" shall be defined as a rolling 12-month period measured backward from the date an employee uses any FMLA leave.

1,250 Hours of Service

The hours of service requirement will be met if an employee has worked a total of 1,250 hours of service in the 12 months immediately preceding the start of the FMLA leave. This averages to a little more than 24 hours of work a week in the 12-month period.

- Generally, the principles for compensable hours of work under the Fair Labor Standards Act (FLSA) are used in determining the hours of service that an employee has worked.
- Only the time actually worked, including overtime hours worked, is counted. Time not actually worked, including vacation, personal leave, sick leave, holidays, and any other form of paid time off (PTO) is not counted towards the 1,250 hours of service. Unpaid leave of any kind or periods of layoff also are not counted.
- Time worked as a part-time, temporary, or seasonal employee counts toward the requirement.
- An employee returning from fulfilling a USERRA-covered military service obligation is credited with the hours of service that would have been performed but for the period of military service. The employee's pre-service work schedule can generally be used for calculations to determine hours that would have been worked during the period of military service.
- If an employer does not maintain accurate time records of hours worked by an employee, the employer has the burden of showing that the employee has not met the hours of service requirement.



DID YOU KNOW?

An employer has the burden of showing that the employee has not met the hours of service requirement even if it is not required to maintain time records for that employee. This may be the case with certain employees, such as school teachers, who may work additional time outside of the classroom or at home.

50 Employees within 75 Miles of the Employee's Worksite

- The 50 or more employee count is determined based on the number of employees on payroll regardless of whether they are part-time, temporary, or seasonal employees.
- The 75 miles are measured from the employee's worksite by surface miles, using surface transportation over public streets, roads, highways, and waterways by the shortest route possible.
- The worksite is ordinarily the site the employee reports to, or from which the employee's work is assigned. A worksite can refer to a single location, a group of buildings, such as a campus or industrial park, or to separate facilities in geographic proximity to one another.
- An employee's personal residence is not a worksite. For employees who work from home under "telework" or "flexi-place" arrangements, or other employees, such as salespersons who may leave to work from and return to their residence, the worksite is the office to which they report or from which they receive assignments.
- For employees with no fixed worksite, such as construction workers, transportation workers, and airline flight crew employees, the site to which they report, from which their work is assigned, or the location to which they are assigned as their home base, is their worksite.