

BILLINGS PUBLIC SCHOOLS

HUMAN RESOURCE SERVICES

5012-R

Family and Medical Leave Act of 1993 -

Procedure

The Federal Family Medical Leave Act of 1993 (FMLA) allows "eligible" employees of a "covered" employer to take job protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of twelve (12) work weeks in any twelve (12) month period because of child birth, care of a newborn child, adoption or placement of a child for foster care, care for a family member (child, spouse, or parent) with a serious medical condition or because the employee's own serious health condition makes the employee unable to perform his/her job.

A. WHO IS ELIGIBLE?

Employees are eligible if they have worked for the District for at least one year, and for 1,250 hours over the previous twelve (12) months, and if there are at least fifty (50) District employees within seventy-five (75)-miles. (29 CFR 824.110)

B. REASONS FOR TAKING LEAVE

Unpaid leave will be allowed eligible employees for any of the following reasons (29 CFR 825.112):

1. to care for the employee's child after birth, or placement for adoption or foster care (29 CFR 825.201);
2. to care for the employee's spouse, son or daughter, or parent (does not include parents-in-law) who has a serious health condition (29 CFR 825.113);
3. for a serious health condition (29 CFR 825.114) that makes the employee unable to perform the employee's job.

WHEN BOTH PARENTS ARE DISTRICT EMPLOYEES

If both parents of a child are employed by the District, they each are entitled to a total of twelve (12) weeks of leave per year; however, leave will be granted to only one parent at a time, and only if leave is taken (1) for the birth of a child or to care for the child after birth; (2) for placement of a child for adoption or foster care, or to care for the child after placement; or (3) to care for a parent with a serious health condition.

D. SUBSTITUTION OF PAID LEAVE

At the District's option, paid leave will be substituted for unpaid leave (29 CFR 825.208):

**BILLINGS PUBLIC SCHOOLS
HUMAN RESOURCE SERVICES**

5012-R
Page 2 of 4

**Family and Medical Act of 1993 -
Procedure**

*Accumulated discretionary/sick leave will be utilized concurrently with any FMLA leave that is taken for serious health reason as described in 2 or 3 above.

* Accumulated discretionary/vacation/sick leave will be utilized concurrently with any FMLA leave that is taken for a family reason as described in 1 above.

E. INTERMITTENT/REDUCED LEAVE

FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances (29 CFR 825.117). Where leave is taken because of birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only, with the approval of the District. Where FMLA leave is taken to care for a sick family member or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when medically necessary. An employee may be reassigned to accommodate intermittent or reduced leave (29 CFR 825.204 and 602). When an employee takes intermittent leave or leave on a reduced leave schedule increments will be limited to the shortest period of time that the District's payroll system uses to account for absences or use of leave.

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods less than a day to a week or more. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Reduced leave is a leave schedule that reduces an employee's usual number of working hours per work week or house per workday. In other words, a reduced leave schedule is a change in the employee's schedule for a period of time, normally from full time to part time. Such a schedule reduction might occur, for example, where an employee, with the District's agreement, works part time after the birth of a child; or because an

Date Adopted: June 30, 1996

employee who is recovering from a serious health condition is not strong enough to work a full-time schedule.

**Family and Medical Act of 1993 -
Procedure**

NOTICE TO DISTRICT EMPLOYEES OF YOUR RIGHTS UNDER THE
FAMILY MEDICAL LEAVE ACT OF 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. To be eligible employees must have worked for the District for at least one year, and for 1,250 hours during the previous 12 months to qualify for FMLA leave.

A. REASONS FOR TAKING LEAVE

Unpaid leave will be granted for any of the following reasons:

- To care for the employee's child after birth, or because of placement of a child with the employee for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Certain kinds of paid leave will be substituted for unpaid leave.

B. ADVANCE NOTICE AND MEDICAL CERTIFICATION

Whenever possible, the employee will be required to provide advance leave notice and medical certification. Taking of leave may be denied or delayed if requirements are not met.

- The employee must provide 30 days advance notice when the leave is foreseeable.
- The District may require medical certification to support a request for leave because of a serious health condition, and may require a second or third medical opinion (at the employer's expense) and a fitness for duty report to return to work.

C. JOB BENEFITS AND PROTECTION

- For the duration of FMLA leave, the District must maintain the employee's health coverage under any "group health plan" as though the employee were working
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefit, and other employment terms.

Date Adopted: June 30, 1996

**BILLINGS PUBLIC SCHOOLS
HUMAN RESOURCE SERVICES**

5012-R
Page 4 of 4

**Family and Medical Act of 1993 -
Procedure**

- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

D. UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for an employer to:

- Interfere with, restrain, **OR** deny the exercise of many rights 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.

E. 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.

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