

**ADMINISTRATIVE REGULATIONS  
Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

**R310 FAMILY AND MEDICAL LEAVES OF ABSENCE**

The purpose of the Family and Medical Leave Act (“FMLA”) is to enable employees to be absent from work for specific family and medical reasons without losing certain benefits for a designated number of workweeks. FMLA leave is unpaid, but may be combined with other types of paid leave for which the individual is eligible. During the period of time than an employee is absent from work while qualifying for FMLA leave, the District requires that such employees also be placed on a leave of absence without pay from all other school activities and extra duty responsibilities.

**I. Eligibility**

- An employee who has been employed by the District for at least twelve (12) months is eligible for FMLA leave, provided the employee worked at least 1,250 hours in the twelve (12) months preceding the beginning of the leave.
- All the hours an employee actually works, including overtime, are considered hours worked. Paid leave time, such as vacations, sick leave, personal leave, and holidays are not considered hours worked.
- Full-time instructional employees are deemed to meet the minimum hour requirement.

**II. Amount of Leave**

An eligible employee may take up to twelve (12) workweeks of unpaid leave in a twelve-month period for the employee’s own serious health condition; for the birth, adoption, foster placement or first-year care of a child; to care for a seriously ill spouse, child or parent; or to address certain qualifying military exigencies.

An eligible employee may take up to twenty-six (26) workweeks of unpaid leave in a single twelve-month period to care for an ill or injured covered service member. Leave to care for an ill or injured covered service member, when combined with other qualifying leave under FMLA, will not exceed twenty-six (26) workweeks in a single twelve-month period.

**III. Utilization of Paid Leave**

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

FMLA leave is unpaid but employees who are on FMLA leave shall utilize any accrued and unused leave to which they are eligible. Employees' use of paid leave during all or part of their FMLA leave does not extend their period of FMLA leave.

**IV. Reasons for Leave**

An eligible employee qualifies for FMLA leave for the following reasons:

1. Birth and first-year care of a child.
2. Adoption or foster placement of a child.
3. Serious illness of an employee's spouse, child or parent.
4. Serious health condition that makes the employee unable to perform the essential functions of the employee's job.
5. Qualifying exigency due to the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty as a member of the Armed Forces, including the National Guard or Reserves in support of a contingency operation.
6. Care of a spouse, child, parent or next of kin<sup>1</sup> in the regular Armed Forces, National Guard or Reserves who is a covered service member undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty.

• **Birth/First-year Care/Adoption/Foster Placement of Child:**

Leave days taken for the birth, first-year care, adoption, or foster placement of a child may be for a period of up to twelve (12) workweeks Intermittent or reduced schedule leave is not permitted under these circumstances.

---

<sup>1</sup> *Next of kin* of a covered servicemember means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember 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 servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin. *See also* § 825.127(d)(3).

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

An employee’s eligibility for leave for the birth, adoption, foster placement or first-year care of a child expires at the end of the twelve-month period beginning on the date of the birth, adoption or foster placement.

If the necessity for leave is foreseeable based on an expected birth or placement, the employee shall notify the District at least thirty (30) days prior to the beginning date of the leave. If the date of birth or placement requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

Applicable contractual guidelines governing child-rearing leave, if any, shall apply to an employee who requests leave beyond the FMLA leave entitlement.

Applicable contractual guidelines may allow an eligible employee to take child-rearing leave for a full semester or a year in conjunction with the twelve (12) week FMLA leave. This unpaid child-rearing leave time will count toward the 12-week FMLA leave time.

- **Serious Health Condition of Spouse/Child/Parent:**

Leave taken for the care of a seriously ill spouse, parent, or child may be for a period of up to twelve (12) workweeks. When medically necessary, an employee may take intermittent or reduced schedule leave for planned medical treatment for a serious health condition of a spouse, child or parent. In addition to the required notification and certification discussed below, the required certification must contain a statement of the medical necessity for this type of leave, the expected treatment dates, and the expected duration of such treatments.

An employee is eligible for leave to care for a spouse, child or parent with a serious health condition that is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential care facility or continuing treatment by a health care provider.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or District and will notify the District of their intention to take leave at least thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in fewer than thirty (30) days, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the District’s established procedures for requesting leave.

**ADMINISTRATIVE REGULATIONS  
Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

The District shall require that a request for leave to care for an employee's spouse, child or parent with a serious health condition be supported by a certification issued by a health care provider for the family member with a serious health condition. The employee will provide the following certification in a timely manner. The certification must include the following:

1. Date the serious health condition began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Statement that the employee is needed to care for the family member.
5. Estimate of the amount of time the employee is needed to care for the family member.

• **Serious Health Condition of Employee**

An employee is eligible for leave for a serious health condition that is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential care facility or continuing treatment by a health care provider.

Leave days taken for the treatment of the employee's own serious health condition may be for a period of up to twelve (12) weeks. When medically necessary, an employee may take intermittent or reduced schedule leave for planned medical treatment or because of a serious health condition. In addition to the required notification and certification discussed below, the required certification must contain a statement of the medical necessity for this type of leave, the expected treatment dates, and the expected duration of such treatments.

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or District and will notify the District of their intention to take leave at least thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the District's established procedures for requesting leave.

The District will require that a request for leave because of the employee's own serious health condition be supported by a certification issued by the employee's health care

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

provider. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Statement that the employee is unable to perform the essential functions of the employee's job.

• **Qualifying Exigency- Active Duty/Call to Active Duty**

An employee shall be eligible for leave because of a qualifying exigency if the employee's spouse, child or parent is on active duty or has been notified of an impending call to active duty. An employee may take FMLA leave for the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Additional activities, agreed to by the District and the employee.

If the necessity for leave is foreseeable, the employee shall provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee shall follow the District's established procedures for requesting leave.

The District may require that a request for leave because of a qualified exigency be supported by a certification. If the District requests a certification, the employee will provide it in a timely manner. The certification must contain the following:

1. Date the qualifying exigency began or will begin.
2. Probable duration and frequency of absence(s).
3. Statement of appropriate facts regarding the qualifying exigency.
4. If the exigency involves a meeting with a third party, the third party's contact information and a description of the meeting.

The employee should attach a copy of the covered service member's active duty orders or other documentation from the military certifying that the covered service member is

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

on active duty or has been notified of an impending call to active duty in support of a contingency operation to the certification.

- **Military Caregiver- Care of Covered Service Member**

An employee is eligible for leave to care for a current member of the Armed Forces, National Guard or Reserves who is undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty.

Leave to care for an ill or injured covered service member, when combined with other qualifying leave under the FMLA, will not exceed twenty-six (26) weeks in a single twelve-month period. When medically necessary, an employee is eligible to take intermittent or reduced schedule leave for planned medical treatment for a covered service member. In addition to the required notification and certification discussed below, the required certification must contain the expected treatment dates and the duration of such treatments.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or District and will notify the District of their intention to take leave at least thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable. If the necessity for leave is not foreseeable, the employee must follow the District's established procedures for requesting leave.

The District shall require that a request for leave to care for a covered service member be supported by a certification signed by the service member's health care provider. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition, injury or illness began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Estimate of the amount of time the service member will need

**V. Procedures**

A. Employee Notice

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

An employee must provide sufficient information regarding the requested FMLA leave, in order for the District to determine whether the leave qualifies for FMLA protections.

The employee must specifically use the term FMLA if the requested leave is for an FMLA-qualifying reason for which the employee previously took FMLA leave.

Medical certification is required in the following situations:

- Treatment of employee's own serious health condition:
  1. The date on which the serious health condition began.
  2. Appropriate medical facts regarding the condition.
  3. The probable duration of the condition.
  4. Statement that the employee is unable to perform the essential functions of the employee's job.
  5. In cases of reduced schedule or intermittent leave for planned medical treatment or because of a serious health condition, the required medical certification must contain a statement of the medical necessity for this type of leave, the expected treatment dates, and the expected duration of such treatments.
  
- Treatment of serious health condition of a spouse, parent or child:]
  1. Statement that the employee is needed to care for a family member.
  2. The date on which the serious health condition began.
  3. Appropriate medical facts regarding the condition.
  4. The probable duration of the condition.
  5. Estimate of the amount of time the employee is needed to care for the family member.
  6. In cases of reduced schedule or intermittent leave for planned medical treatment for a serious health condition of a spouse, child, or parent, the required medical certification must contain a statement of the medical necessity for this type of leave, the expected treatment dates, and the expected duration of such treatments.
  
- Care for a covered service member:
  1. The date on which the serious health condition, injury or illness began.
  2. Appropriate medical facts regarding the condition.
  3. The probable duration of the condition.
  4. Estimate of the amount of time the service member will need care. In cases of intermittent or reduced schedule leave for planned medical treatment of a covered

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

service member, the required medical certification must contain the expected treatment dates and the duration of such treatments.

**B. Employer Notice**

The District shall notify the employee within five (5) business days of the employee's request as to whether or not the leave will be protected under the FMLA.

If the employee is eligible, the District shall notify the employee of the following:

1. The employee's rights and responsibilities.
2. The amount of leave that will be counted against the employee's leave entitlement.
3. Whether or not the employee will have to submit a fitness-for-duty certification before returning to work.

If the employee is not eligible for FMLA leave, the District will provide a reason for the ineligibility.

**C. Certification**

An employee shall submit required certification within fifteen (15) days after receiving the District's response to their request for leave, unless impracticable to do so.

If an employee submits incomplete or insufficient certification, the District will notify the employee in writing on any additional information necessary to make the certification complete and sufficient; and the employee has seven (7) days to cure the deficiency.

The District may contact the health care provider for purposes of clarification and authentication after the employer has given the employee an opportunity to cure any deficiencies, but the District may not request additional information beyond that required on the certification form.

When the District questions the validity of certification, the District may require, at its own expense, a second opinion from a health care provider designated by the District who is not regularly employed by the District.

When the second opinion differs from the original certification, the District may require, at District expense, a third opinion from the health care provider approved jointly by the District and the employee. The opinion of the third health care provider will be binding on the District and the employee.



**ADMINISTRATIVE REGULATIONS  
Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

The District will not require second or third opinions on qualifying exigency certifications or military caregiver leave certifications.

D. Recertification

The District will request a recertification in the following situations:

1. Every six (6) months in connection with absence for an ongoing condition.
2. Each leave year for a condition that lasts longer than one (1) year.
3. If the employee requests an extension of leave.

The District will not require recertification for qualifying exigency leave or military caregiver leave.

**VI. Benefits During Leave**

The District shall maintain an employee's health coverage under the District's group health plan during FMLA leave on the same terms as if the employee had continued to work.

Prior to beginning FMLA leave, an employee must make arrangements with the District for payment of the employee's share of group health plan premiums. Employee co-payments, if applicable, will continue to be paid by the employee during the leave.

An employee on FMLA leave will not lose any other employment benefits accrued prior to the date the leave began but is not entitled to accrue seniority or employment benefits during the leave period.

**VII. Special Considerations**

A. Reduced Schedule or Intermittent Leave

An employee may be eligible for intermittent or reduced schedule leave for the employee's own serious health condition; to care for a seriously ill spouse, child or parent; to care for a seriously injured or ill covered service member; or for a qualifying exigency.

Intermittent leave is taken in separate blocks of time due to a single illness or injury, rather than one (1) continuous period of time.

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

Reduced schedule leave reduces an employee’s usual number of working hours per workweek or hours per workday.

When an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the District may require the employee to temporarily transfer to an alternative position as a condition of approving a reduced schedule or intermittent leave. Though the alternative position may not have equivalent duties, it will be a position for which the employee is qualified, and it will carry equivalent pay and benefits. The decision will be based on the overall impact on the District’s operation and will be consistent with any applicable collective bargaining agreement or employment contract.

Though the request for reduced schedule or intermittent leave will be considered, the final decision for approval rests with the District and will be based on documentation of the medical necessity for such a change in work schedule.

**B. Effect of Summer Vacation**

Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee’s Family and Medical Leave entitlement. An employee who is on a Family and Medical Leave at the end of the school year must be provided with any benefits over the summer vacation that the employee would normally receive if they had been working at the end of the school year.

**C. Spouses Employed by District**

Spouses employed by the District who are both eligible for FMLA leave will be limited to a combined total of twelve (12) workweeks per year when the leave is taken for the birth, adoption, foster placement or first-year care of a child or to care for a parent with a serious health condition.

Spouses employed by the District who are both eligible for FMLA leave will be limited to a combined total of twenty-six (26) workweeks per year if the leave is taken to care for a covered service member or it is taken as a combination of leave to care for a covered service member and leave for the birth, adoption or foster placement of a child; to care for a child after birth, adoption or foster placement, or to care for a parent with a serious health condition.

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

If the FMLA leave taken by spouses employed by the District includes a combination of leave taken for the birth, adoption or foster placement of a child or to care for the child after birth, adoption or foster placement, and to care for a parent with a serious health condition, the leave will be limited to twelve (12) workweeks per year.

**D. Instructional Employees**

Specific rules apply to instructional employees, in addition to Board Policy and the Administrative Regulations covering all employees.

Instructional employees are those whose principal function is to teach and instruct students in a class, small group or individual setting. Such employees include teachers, athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired.

Special rules apply when an instructional employee requests intermittent or reduced schedule because of the employee's own serious health condition, to care for a spouse, child or parent with a serious health condition, or to care for a covered service member with a serious injury or illness when the leave is foreseeable based on planned medical treatment and the employee would be on leave for more than twenty percent (20%) of the total number of working days in the period of leave. Under those circumstances, the District may require the employee to elect either of the following:

1. To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment.
2. To transfer temporarily to an available alternative position offered by the District for which the employee is qualified and has equivalent pay and benefits and better accommodates recurring periods of leave than does the employee's regular position.

Special rules also apply for instructional employees who begin FMLA leave more than five (5) weeks before the end of an academic term, less than five (5) weeks before the end of an academic term, and less than three (3) weeks before the end of an academic term. Regular rules apply except in circumstances when:

1. An instructional employee begins leave more than five (5) weeks before the end of a term. The District may require the employee to continue taking leave until the end of the academic term if:
  - a. Leave will last at least three (3) weeks, and
  - b. Employee would return to work during the last three (3) weeks of an academic term.

**ADMINISTRATIVE REGULATIONS**  
**Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

2. Employee begins leave for a purpose other than the employee’s own serious health condition or qualifying exigency during the five (5) week period before the end of an academic term. The District may require the employee to continue taking leave until the end of the academic term if:
  - a. Leave will last more than two (2) weeks, and
  - b. Employee would return to work during the last two (2) weeks of the academic term.
3. Employee begins leave for a purpose other than the employee’s own serious health condition or qualifying exigency during the three (3) week period before the end of an academic term, and the leave will last more than five (5) working days. The District may require the employee to continue taking leave until the end of the academic term.

For purposes of these provisions, “academic term” means the school semester, which typically ends near the end of January and the middle of June each school year. In no case may a school have more than two (2) academic terms or semesters each year for purposes of FMLA. An example of leave falling within these provisions would be where an employee plans two (2) weeks of leave to care for a family member which will begin three (3) weeks before the end of the term. In that situation, the District could require the employee to stay out on leave until the end of the term.

When an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work will be counted against the FMLA leave entitlement. However, the District will continue the group health insurance coverage under the same conditions as if the employee were working.

E. Return to Work

An employee on FMLA leave shall report their status and intention regarding returning to work at least every four (4) weeks, unless alternative arrangements are made with the Human Resources Manager. An employee returning to work from an FMLA leave shall provide to the District at least five (5) work days’ notice of their date of return.

When the FMLA leave is related to an employee’s own serious health condition, the District shall require the employee to submit certification from the employee’s health care provider that the employee is able to return to work.

**ADMINISTRATIVE REGULATIONS  
Lower Merion School District**

Policy No.:	310
Section:	EMPLOYEES
Title:	FAMILY AND MEDICAL LEAVES OF ABSENCE
Date Adopted:	4/21/03
Date Last Revised:	5/7/21

An employee shall be returned to the same or equivalent position at the end of the leave, unless the District demonstrates that the employee would not otherwise have been employed at the time reinstatement is requested.

Placement upon return from leave will be determined by the District at the time the employee returns to work. An attempt will be made to place the employee in the position held prior to the leave. However, the District may decide that it is in its best interest to place the employee in an equivalent position. Salary and benefits will be equivalent to the original position.

Under specific circumstances, the District may deny restoration to a key employee. A key employee is one who is among the highest paid ten percent (10%) of District employees and whose restoration would cause the District to experience a substantial and grievous economic injury.

F. Failure to Return from Leave

Failure to return to work at the expiration of a leave will subject the employee to immediate termination of employment, unless an extension has been granted. The request for extension of a leave must be submitted in writing to the Office of Human Resources prior to the expiration of the leave and as soon as the employee realizes that an extension of the leave is necessary. The District shall also follow State or local law or the terms of a collective bargaining agreement that govern an employee's return to work.

If an employee fails to return to work after an FMLA leave for any reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to leave, or other circumstances beyond the employee's control, the District will recover from the employee the premiums it paid to maintain the employee's health care coverage during the leave.