

FMLA PROCEDURES

Admin. Reg. HRS-16.1
~~August, 2010~~ June, 2017

I. Purpose and Policy. ~~It is the policy of the BCSD to grant up to twelve (12) weeks of family and medical leave during any twelve (12) month period to eligible BCSD employees, in accordance with the Family and Medical Leave Act of 1993 ("FMLA") and up to 26 weeks of leave in any twelve (12) month period in compliance with the expansion of the FMLA pursuant to The Support for Injured Service Members Act of 2007. Calculation of leave shall be on a rolling twelve (12) month period measured backwards from the date the employee used FMLA leave. Where permitted by the FMLA, the BCSD required employees to use their accumulated sick leave and annual leave in conjunction with the FMLA.~~

II. Eligibility Requirements. ~~An employee who has worked for the BCSD for at least twelve (12) months is eligible to for twelve (12) work weeks of FMLA leave during a twelve (12) month period, provided the employee worked at least 1,250 hours during the twelve (12) month period preceding the beginning of the leave. The principles established pursuant to the Fair Labor Standards Act ("FLSA") determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked, and such hours are not to be used in determining whether the employee worked 1,250 hours during the previous twelve (12) months. To qualify for leave under this policy, an employee must have been employed by the District for at least 12 months as of the date on which the requested leave will commence. Additionally, the employee must have worked at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave.~~

III. Leave Entitlement. ~~An eligible employee may take FMLA leave is entitled to a total of 12 rolling workweeks of unpaid leave in any 12 month period. FMLA leave is available for the following reasons:~~

~~A. The~~ A. ~~the~~ birth of a son or daughter of the employee;

~~A.B. The~~ A.B. ~~the~~ placement of a child with the employee for adoption or foster care;

~~B.C. To~~ B.C. ~~to~~ care for a spouse, son, daughter, or parent of the employee if such spouse, son, daughter, or parent has a serious health condition;

~~C.D. Because~~ C.D. ~~because~~ of a serious health condition of the employee ~~that renderings~~ the employee unable to perform the essential functions of the position; ~~or~~ OR

~~D.E. A~~ D.E. ~~a~~ qualifying exigency arising out of the fact ~~that~~ a spouse, child, or parent of the employee is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces.

IV. Military Leave Entitlements. ~~An eligible e~~ Employees seeking to use military caregiver leave must provide 30 ~~days~~ days' advance notice of the need to take FMLA leave for

planned medical treatment for a serious injury or illness of a covered service member. -If leave is foreseeable, but 30 days' advance notice is not practicable, the employee must provide notice as soon as practicable, which would generally be on the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. -The ~~BCSD District~~ may require ~~that~~ an employee's request for military family leave be supported by appropriate certification.

A. Military Caregiver Leave. -An eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness is entitled to up to a total of 26 work weeks of unpaid leave during a "single twelve (12)-month period" to care for the service member. -A covered service member is a current member of the Armed Forces deployed to a foreign country, including a member of the National Guard or Reserves deployed to a foreign country, or a veteran of such services who was in active service during the five years previous, 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. -A serious injury or illness is one ~~that was~~ incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. -The "single twelve (12)-month period" for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends twelve (12) months later, regardless of the twelve (12)-month period established herein by the ~~BCSD District~~ for other types of FMLA leave. -An eligible employee is limited to a combined total of 26 work weeks for any FMLA-qualifying reason during ~~at the~~ "single twelve (12)-month period." Only twelve (12) of the 26 available weeks ~~total~~ may be for a FMLA-qualifying reason other than to care for a covered service member.

B. Qualifying Exigency Leave. -An eligible employee is entitled to up to a total of twelve (12) work weeks of unpaid leave during the normal twelve (12)-month period established by the ~~BCSD District~~ for FMLA leave for qualifying exigencies arising out of the fact ~~that~~ the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation. -Qualifying exigency leave is available to a family member, as defined above, of a military member in the National Guard, Reserves, or Regular Armed Forces.

1. Qualifying exigencies include:

- a. ~~I~~ssues arising from a covered military member's short notice deployment, i.e., deployment on seven (7) or fewerless days of notice for a period of seven (7) days from the date of notification;
- b. ~~M~~military events and related activities such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military

service organizations, or the American Red Cross ~~that are~~ related to the active duty or call to active duty status of a covered military member;

- c. ~~C~~ertain childcare and related activities arising from the active duty or call to active duty status of a covered military member such as arranging for alternative childcare; providing childcare on a non-routine, urgent, immediate need basis; enrolling or transferring a child in a new school or day care facility; and attending certain meetings at a school or a day care facility if ~~they are~~ necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- d. ~~M~~aking or updating financial and legal arrangements to address a covered military member's absence;
- e. ~~A~~ttending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- f. ~~T~~aking up to five (5) days of leave to spend time with a covered military member who is on short-term temporary, rest, and recuperation leave during deployment;
- g. ~~A~~ttending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status or addressing issues arising from the death of a covered military member; and
- h. any other event ~~that~~ the employee and the BCSD District agree is a qualifying exigency.

C. An eligible employee who desires to take leave pursuant to this Administrative Regulation under this policy will shall request such leave from his/her immediate supervisor, who will then notify the Superintendent's designee, the Chief Administrative and Human Resources Officer ("CAHRO") ~~or his/her designee~~ of the request. Requests will be responded to in a timely manner. -An employee needing FMLA leave shall-must follow the BCSD District's usual and customary ~~call-in~~ procedures for reporting an absence, absent unusual circumstances.

IV.V. Other FMLA Leave Other Qualifying Events.

A. Birth, Adoption, or Foster Care Placement of a Child.

1. An eligible employee may take FMLA leave for either of the following:

a. The birth of the employee's son or daughter and to care for the newborn child; and

b. The placement with the employee of a son or daughter for adoption or foster care and to care for the newly placed child.

1.2. The entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the date of such birth or placement.

2.3. "Foster care" is 24-hour care for children in substitution for, and away from, their parents or guardian, by or with the agreement of the Sstate or pursuant to a judicial determination.

3.4. "Son or daughter" means a biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in loco parentis, who is either under age eighteen (18), or who is eighteen (18) years of age ~~18~~-or older and incapable of self-care because of a mental or physical disability. ~~Persons who are "in loco parentis" include those with day-to-day responsibilities to care for and financially support a child, or in the case of an employee, who had such responsibility for the employee when the employee was a child.~~

B. Serious Health Condition of Employee. An eligible employee may take leave because of a serious health condition making the employee unable to perform the functions of his/her position.

1. This Administrative Regulation covers illnesses of a serious and long-term nature, resulting in recurring and lengthy absences. Generally, a chronic or long-term health condition which, if left untreated, would result in a period of incapacity of more than three (3) days would be considered a serious health condition.

1.2. A "serious health condition" is an illness, injury, impairment, or physical or mental condition ~~that~~ involves either:

a. Inpatient care such as an overnight stay in a hospital, hospice, or residential medical-care facility including any period of incapacity, i.e., i.e., the inability to work, attend school, or perform other regular daily activities or subsequent treatment in connection with such inpatient care; or

b. Continuing treatment by a healthcare provider as defined below.

2.3. "Continuing treatment by a healthcare provider" means any of the following:

a. ~~a~~ A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:

- i. ~~(a)–(1)~~ Treatment two (2) or more times by or under the supervision of a health care provider, which includes in-person visits, the first within seven (7) days and both within 30 days of the first day of incapacity; or
- ii. ~~(b)–(2)~~ One (1) treatment by a health care provider, which includes an in-person visit within seven (7) days of the first day of incapacity with a continuing regimen of treatment, e.g.e.g., prescription medication, physical therapy, etc.;~~–(2)~~
- b. ~~A~~any period of incapacity related to pregnancy or for prenatal care; a visit to the health care provider is not necessary for each absence;~~–(2)~~
- c. ~~A~~any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity; ~~(a visit to a health care provider is not necessary for each absence);~~~~–(2)~~
- d. ~~A~~a period of permanent or long-term incapacity due to a condition for which treatment may not be effective. In such case, ~~–~~only supervision by a health care provider is required, rather than active treatment; or
- e. ~~A~~any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

3.4. ~~A~~ "Hhealthcare provider" shall be defined as set forth in the FMLA and its implementing regulations, as amended. ~~is defined as any of the following:~~

- ~~a. a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;~~
- ~~b. a podiatrist, dentist, clinical psychologist, optometrist, or chiropractor authorized to practice in the state and performing within the scope of his/her practice as defined under state law;~~
- ~~c. a nurse practitioner or nurse midwife, who is authorized to practice under state law and who is performing within the scope of his/her practice as defined under state law; or~~
- ~~d. a Christian Science practitioner listed with the First Church of Christ Scientist in Boston, Massachusetts.~~

5. Employees with questions about whether an illness is covered by the FMLA and this Administrative Regulation are encouraged to consult with the BCSD Human Resources Department.

4.6. As set forth below, the BCSD requires an employee to provide a medical certification of the serious health condition.

C. Serious Health Condition of Employee's Spouse, Child, Parent. An employee may take leave to care for the employee's spouse, son, daughter, or parents, if such spouse, son, daughter, or parent has a serious health condition, as described above. The terms "son" or "daughter" do not include individuals over the age of eighteen (18) unless they are incapable of self-care because of mental or physical disability limiting one (1) or more major life activities as defined by the Americans with Disabilities Act, as amended, and its implementing regulations. FMLA leave for this reason is not available to care for an employee's parent-in-law or grandparents who do not meet the "loco parentis" standard.

V.VI. Intermittent or Reduced Schedule Leave.

A. "Intermittent leave" ~~may beis leave~~ taken in separate blocks of time due to a single illness or injury, rather than for one (1) continuous period of time and may include leave periods from one (1) hour or more to several weeks.

B. A "reduced schedule leave" ~~is a leave schedule that~~ reduces an employee's usual number of working hours per work week or hours per workday.

~~C. Intermittent leave or a reduced work schedule may be taken only for a serious health condition requiring periodic medical treatments or appointments including, but not limited to, chemotherapy for a cancer patient or for periodic prenatal examinations. Intermittent leave may be used for a chronic serious health condition characterized by or involving sporadic episodes of illness or disability. Leave for the birth or placement of a child may not be taken intermittently or on a reduced schedule without the written consent of the Superintendent or his/her designee, who will consult with the employee's immediate supervisor before granting such consent.~~

~~D.C.~~ Leave to care for a seriously ill spouse, son, daughter, or parent or for the employee's own serious health condition may be taken intermittently or on a reduced schedule only when medically necessary and as approved by the BCSD District.

~~E.D.~~ If an eligible employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the Superintendent or his/her designee may require such employee to transfer temporarily to an available alternative position for which the employee is qualified with that (a) has equivalent pay and benefits and ~~(b) which~~ better accommodates recurring periods of leave or family and medical leave if such position is available. ~~When leave is needed for~~

planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the ~~BCSD~~District's operations.

E. Intermittent or Reduced Schedule Leave for Instructional Employees.

1. If an eligible employee employed principally in an instructional capacity requests leave to care for a seriously ill spouse, child, or parent or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period during which the leave would extend, the Superintendent or his/her designee, in consultation with the employee's Principal, may require the employee elect either of the following:
 - a. To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatments; or
 - b. To transfer temporarily to an available alternative position for which the employee is qualified and has equivalent pay and benefits and which better accommodates recurring periods of leave.
2. Rules applicable to periods near the conclusion of an academic term for employees employed principally in an instructional capacity.
 - a. If an eligible employee employed principally in an instructional capacity begins leave near the end of an academic semester for the birth or placement of a child or to care for a seriously ill child, spouse or parent, the Superintendent or his/her designee, in consultation with the school principal, may require the employee to continue taking leave until the end of the semester under the following conditions:
 - i. If more than five (5) weeks prior to the end of an academic semester and the leave is of at least three (3) weeks duration or the return would occur during the three (3) week period before the end of the term;
 - ii. If during the five (5) week period prior to the end of an academic semester and the leave is greater than two (2) weeks or the return to employment would occur during the two (2) week period before the end of the term; or
 - iii. if during the three (3) week period prior to the end of an academic semester and the duration of the leave is greater than five (5) work days.
 3. If the BCSD requires an employee to remain on leave until the end of an academic term and this results in the employee taking more leave than is necessary to resolve the condition which necessitated the leave, the additional leave time required to be taken will not be deducted from the employee's total available FMLA leave. The employee, however, will continue during this time to

be entitled to the maintenance of health benefits and job restoration in accordance with this Administrative Regulation.

VI.VII. Substitution of Paid Leave.

- A. Under certain conditions, employees or the ~~BCSD~~District may choose to "substitute" or run concurrently accrued paid leave to cover some or all of the FMLA leave. ~~An~~ eligible employee's ability to substitute accrued paid leave is determined by the terms and conditions of ~~the BCSD Administrative Regulation HRS-16, Staff Leaves and Absences~~District's normal leave policy.
- B. An eligible employee may elect, or the Superintendent or his/her designee may require the eligible employee, to substitute any available accrued paid leave in keeping with the provisions of other leave policies for leave taken for the following:
 - 1. ~~T~~he birth or placement of a child;
 - 2. ~~T~~o care for a seriously ill spouse, child, or parent; or
 - 3. ~~F~~or the employee's own serious health condition.

VII.VIII. Foreseeable Leave/Notice Required.

- A. When the necessity for leave for the birth or placement of a child is foreseeable based on an expected birth or placement, the employee ~~shall~~must provide at least 30 ~~days~~days' notice to his/her immediate supervisor of the anticipated timing and duration of the employee's leave. ~~The~~ failure to provide such notice with no reasonable excuse for the delay may result in the denial of a request for leave until 30 days after the employee provides notice.
- B. If the date of the birth or placement requires leave to begin in less than 30 days, the employee must provide as much notice as is practicable.
- C. When leave to care for a seriously ill spouse, child, or parent or for an employee's own serious health condition is foreseeable based on planned medical treatment, the employee must do the following:
 - 1. ~~M~~ake a reasonable effort to schedule the treatment so as not to disrupt unduly ~~the BCSD~~District's operations, subject to the approval of the healthcare provider and
 - 2. ~~P~~rovide at least 30 days' notice to his/her immediate supervisor of the anticipated timing and duration of the employee's leave, except ~~that~~ if the date of treatment requires leave to begin in less than 30 days, the employee ~~shall~~must provide as much notice as practicable.

D. An employee who fails or refuses to follow the notice requirements set forth in this Administrative Regulation or in the FMLA may be required to provide proof of an unusual circumstance justifying the employee's failure/refusal to comply with or follow such notice requirements.

VIII.IX. Spouses Employed by the BCSD District. Spouses employed by the BCSD District 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 twelve (12) weeks (or 26 weeks if leave to care for a covered service member with a serious injury or illness is used). -Leave for birth and care, or placement for adoption or foster care, must conclude within twelve (12) months of the birth or placement.

IX.X. Documentation and Certification.

A. An employee requesting FMLA leave due to the covered family's member active duty or call to active duty in the armed forces shall provide proof of the such active duty or call to active duty. The documentation may be a copy of the military orders or other official armed forces communication.

B. An employee requesting FMLA leave to care for an injured or ill service member shall provide documentation of the family member's or next-of-kin's injury, recovery, or need for care. The documentation may be a copy of the military medical information orders for treatment or other official armed forces communication pertaining to the service member's injury or illness incurred on active duty rendering the member medically unfit to perform his/her military duties.

A.C. The BCSD requires certification of a serious medical condition. A request for leave to care for a seriously ill spouse, child, or parent or for the employee's own serious health condition must be supported by a certification issued by the healthcare provider of the employee or family member. Medical certification shall be provided using tThe BCSD District has pre-approved forms available, which an employee may use for this purpose medical certification form.

B.D. The employee shall make a diligent, good faith effort to respond and provide the required medical certification should furnish certification at or before the time the employee gives notice of the need for leave, or within five (5) business days thereafter, or in the case of unforeseen leave, within (5) business days after the leave commences, or provide a reasonable explanation for the delay. -The BCSD District may request certification at some later date if the BCSD District later has reason to question the appropriateness of the leave or its duration. -In such a case, the employee shall must provide the requested certification to the BCSD District within fifteen (15) calendar days after the BCSD District's request, unless it is not practicable under the particular circumstances to do so.

C.E. The certification shall must contain the following information:

1. ~~T~~he date on which the serious health condition commenced;
2. ~~T~~he probable duration of the condition;
3. ~~T~~he appropriate medical facts regarding the condition;
4. ~~F~~or leave taken to care for a seriously ill spouse, child, or parent, a statement ~~that~~ the employee is needed to care for the spouse, child, or parent and an estimate of the amount of time the employee will be needed for that purpose;
5. ~~F~~or leave taken due to an employee's serious health condition, a statement ~~that~~ the employee is unable to perform the essential functions of the position;
6. ~~F~~or intermittent or reduced schedule leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;
7. ~~F~~or intermittent or reduced schedule leave for an employee's serious health condition, ~~a~~the statement of the medical necessity for the intermittent or reduced schedule leave and the expected duration of such leave; or
8. ~~F~~or intermittent or reduced schedule leave to care for a seriously ill spouse, child, or parent, a statement ~~that~~ the employee's intermittent or reduced schedule is necessary for the care of the spouse, child, or parent or will assist in their recovery and the expected duration and schedule of the intermittent or reduced schedule leave.

D.F. The ~~BCSDDistrict~~ may contact the health care provider for purposes of clarification and authentication of the medical certification, whether initial certification or recertification, after giving the employee an opportunity to cure any deficiencies. ~~To make such contact, the BSSDDistrict must shall~~ use a health care provider, an Office of Human Resources professional, a leave administrator, or a management official. ~~The employee's direct supervisor shall notmay not~~ contact the employee's health care provider. ~~"Authentication"~~ means providing the health care provider with a copy of the certification and requesting verification ~~that~~ the information contained on the certification form was completed and/or authorized by the health care provider who signed the document. ~~No; no~~ additional medical information may be requested. ~~"Clarification"~~ means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of a response.

E.G. If the Superintendent or his/her designee or the employee's immediate supervisor has reason to doubt the validity of a certification, ~~he/shes/he~~ may require, at ~~the BCSDDistrict's~~ expense, ~~that~~ the employee obtain the opinion of a second healthcare provider designated or approved by the Superintendent or his/her designee.

~~F.H.~~ If the first and second opinions of the healthcare providers are conflicting, the opinion of a third healthcare provider designated or approved jointly by the Superintendent or his/her designee may require the employee or family member to submit to an examination, though not treatment, to obtain a second or third certification from a healthcare provider other than a Christian Science practitioner.

~~G.I.~~ The Superintendent or his/her designee may require subsequent recertification on a reasonable basis but no more often than every 30 days unless one of the following occurs:

1. ~~T~~he employee requests an extension of leave;
2. ~~T~~he circumstances described by the original certification have changed significantly; or
3. ~~T~~he Superintendent or his/her designee receives information which casts doubt on the continuing validity of the prior certification.

~~X.XI.~~ **Employment, Exemptions, and Benefits Protection.**

A. Restoration to Position.

1. Any employee who takes leave for the intended purpose of the leave will be entitled, on return from leave, to be restored to the position of employment held by the employee when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
2. A restored employee is not entitled to the accrual of any seniority or any right, benefit, or position of employment other than that to which the employee would have been entitled had the leave not been taken.
3. As a condition of restoration for an employee who has taken leave due to his/her own serious health condition, the employee must provide a certification from the healthcare provider stating that the employee is able to resume work.
4. An employee on leave must report periodically to his/her immediate supervisor on his/her status and intention to return to work.

B. Exemption of Certain Highly Compensated Employees.

1. The Superintendent or his/her designee may deny restoration to a salaried employee who is among the highest paid 10% of ~~BCSD District~~ employees under the following circumstances:

- a. ~~S~~such denial is necessary to prevent substantial and grievous economic injury to ~~the BCSD operations of the District~~;
 - b. ~~T~~he Superintendent or his/her designee notifies the employee of the intent to deny restoration at the time he/she determines such injury would occur; or
 - c. ~~I~~f after leave has commenced, the employee decides not to return to work.
2. If the Superintendent or his/her designee believes ~~that~~ reinstatement may be denied to a key employee, the Superintendent or his/her designee shall~~must~~ provide written notice to the employee at the time leave is requested that he/she~~that he/she~~ qualifies as a key employee. ~~–~~In addition, the employee must be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if it is determined ~~that~~ substantial and grievous economic injury will result from the employee's reinstatement.
 3. As soon as the Superintendent or his/her designee determines ~~that~~ such an injury will result from reinstatement, he/shes/he~~he~~ must again notify the employee in writing of this determination and advise the employee ~~that~~ the BCSD District~~BCSD District~~ cannot deny leave but ~~that it~~ intends to deny restoration to employment on completion of the leave. ~~–~~This notice must be delivered in person or by certified mail. ~~–~~It also shall~~must~~ explain the basis for the finding ~~that~~ substantial and grievous economic injury will result and shall~~must~~ provide the employee a reasonable time in which to return to work.
 4. Once the key employee's leave has expired, he/she still is entitled to request reinstatement. ~~–~~The Superintendent or his/her designee must then determine whether there will be substantial and grievous economic injury from reinstatement based on the facts at that time. ~~–~~If it is determined ~~that~~ such an injury will result, the Superintendent or his/her designee shall~~will~~ notify the employee in writing of the denial of restoration. ~~–~~This notice must be delivered in person or by certified mail.

C. Maintenance of Health Benefits.

1. During an employee's leave, the BCSD District will~~will~~ shall maintain coverage under any group health plan at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
2. The employee ~~must~~ shall continue to pay his/her portion of all insurance premiums to maintain coverage. ~~–~~If an employee's premium payment is more than 30 days late, the BCSD District~~BCSD District~~ may discontinue coverage of the employee under the policy. The BCSD District will~~will~~ shall provide fifteen (15) days advance notice before any such cancellation of coverage.

3. If coverage lapses because an employee has not made premium payments, upon the employee's return from leave, the BCSD shall District will restore the employee to coverage and benefits equivalent to those the employee would have had if leave had not been taken and the premium payments had not been missed.
4. If the BCSD District continues coverage under the policy by paying the employee's portion of the premiums, the District BCSD is entitled to recover all such payments from the employee. Further, the BCSD District may recover from an employee its share of health plan premiums paid during a period of leave under this ~~policy~~ Administrative Regulation if the employee fails to return to work at the expiration of the leave, unless the reason for the employee's failure to return is due to the continuation, recurrence or onset of a serious health condition or other circumstances beyond the employee's control. If an employee fails to return because of the continuation, recurrence or onset of a serious health condition, the employee must provide a certification of the employee's or family member's serious health condition. The BCSD District also will not seek recovery for its share of premiums for any portion of paid leave substituted or used by an employee.

XII. Other Employment While on Leave. A BCSD employee who is on leave is prohibited from unauthorized work for personal gain for or through another employer while on leave through the BCSD.

D. Intermittent or Reduced Schedule Leave for Instructional Employees.

- ~~2. General. If an eligible employee employed principally in an instructional capacity requests leave to care for a serious ill spouse, child or parent or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for greater than 20% of the total number of working days in the period during which the leave would extend, the Superintendent or his/her designee, in consultation with the school principal, may require that the employee elect either of the following:

 - ~~A. to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatments; or~~
 - ~~B. to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and which better accommodates recurring periods of leave.~~~~
- ~~3. Rules applicable to periods near the conclusion of an academic term for employees employed principally in an instructional capacity.~~
- ~~4. If an eligible employee employed principally in an instructional capacity begins leave near the end of an academic semester for the birth or placement of a child or to care for a seriously ill child, spouse or parent, the Superintendent or his/her~~

~~designee, in consultation with the school principal, may require the employee to continue taking leave until the end of the semester under the following conditions:~~

- ~~i. if more than 5 weeks prior to the end of an academic semester and the leave is of at least 3 weeks duration or the return would occur during the 3 week period before the end of the term; or~~
- ~~ii. if during the 5 week period prior to the end of an academic semester and the leave is greater than 2 weeks or the return to employment would occur during the 2-week period before the end of the term; or~~
- ~~iii. if during the 3 week period prior to the end of an academic semester and the duration of the leave is greater than 5 working days.~~

~~5. If the District requires an employee to remain on leave until the end of an academic term and this results in the employee taking more leave than is necessary to resolve the condition which necessitated the leave, the additional leave time required to be taken will not be deducted from the employee's total available FMLA leave. The employee, however, will continue during this time to be entitled to the maintenance of health benefits and job restoration in accordance with this administrative rule.~~

~~Forms attached: BCSD Family and Medical Act Leave Request Form
BCSD Family and Medical Leave Designation Form
BCSD Certification of Healthcare Provider
BCSD Family and Medical Leave Status Report Form~~

Adopted: August, 2010

Revised: June, 2017