

## **SUPERINTENDENT'S REGULATION 5-7.7 FAMILY AND MEDICAL LEAVE**

Any eligible Poquoson City School Board employee is entitled, pursuant to the Family and Medical Leave Act (FMLA), to leave for a combined total of twelve (12) weeks per year for the following situations:

1. the birth and care of a newborn child;
2. the adoption or foster placement of a child;
3. to care for the employee's spouse, parent, or child with a serious health condition;
4. because of a serious health condition that makes the employee unable to perform the essential functions of the employee's job; and
5. certain circumstances arising out of a family member's active military duty.

To be eligible for leave under this policy the employee must have at least twelve (12) months of service with the Poquoson City Public Schools and have worked at least 1250 hours according to the Fair Labor Standards Act in the twelve (12) months preceding the commencement of the leave. Full-time teachers are deemed to meet the 1250 hour test.

For the purposes of this policy a year is defined as beginning July 1 and ending June 30.

To the extent that an employee is entitled to compensated leave, including sick leave and personal leave, under other School Board policies, such paid leave shall be used concurrently with the 12-week family and medical leave entitlement. Otherwise, family and medical leave is unpaid.

### **Notice to Employees of Their Rights under the FMLA**

The School Board shall post, in conspicuous places where employees are employed, a notice explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. Such notice will be posted prominently where it can be seen by employees and applicants for employment and the text will be large enough to be easily read.

Information concerning the FMLA entitlement, employee obligations and this policy must be included in the Poquoson City Public Schools employee handbook or other document informing employees of their rights.

### **Leave for the Birth, Adoption or Foster Placement of a Child**

Upon request, any eligible employee shall be granted family and medical leave for the purpose of caring for a newborn or newly adopted child or the placement of a foster child.

The employee's entitlement to leave for a birth, adoption or foster placement of a child expires at the end of the twelve-month period beginning on the date of the birth, adoption or foster placement. Leave taken for the birth, adoption or foster placement of a child may be taken intermittently or on a reduced leave schedule if the division superintendent agrees to such an arrangement.

### **Serious Health Condition of Employee**

Family and medical leave shall be provided for an employee's serious health condition that makes the employee unable to perform the essential functions of the job. A serious health condition is an illness, injury, impairment or condition that involves inpatient care or continuing treatment by a health care provider. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

### **Serious Health Condition of Child, Spouse or Parent of Employee**

Family and medical leave shall be provided when the employee is needed to care for his/her spouse, child or parent with a serious health condition, as defined above. Employees are entitled, when medically necessary, to take such leave on an intermittent or reduced leave schedule except as provided below.

### **Military Caregiver Leave**

Eligible employees who are the spouse, son, daughter, parent or next of kin of an active-duty member of the Armed Forces, including a member of the National Guard or Reserves, 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, are entitled to up to a combined total of twenty-six (26) weeks of unpaid leave during any twelve (12) month period for the care of the military family member.

### **Rules for Intermittent and Reduced Schedule Leave**

When permitted by this policy, intermittent and reduced schedule leave may be used until the aggregate amount of such leave equals twelve (12) weeks in a year (July 1-June 30). However, the school division may assign the employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced schedule leave.

Instructional employees (including teachers, athletic coaches, driving instructors and special education assistants) who need foreseeable intermittent or reduced schedule leave for themselves or family members and the leave would be greater than twenty percent of the total number of working days over the period of leave, may be required to take leave for a particular period or temporarily transfer to another position with equivalent pay and benefits.

### **Rules for Spouses Employed by Poquoson City School Board**

A husband and wife who are both eligible for family and medical leave and are both employed by the Poquoson City School Board shall be granted family and medical leave only for a combined total of twelve (12) weeks per year when the leave is taken for the birth, foster placement, or adoption 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.

### **Employee Notice of the Need for Leave**

Employees must provide at least thirty (30) days notice of the need for family and medical leave. If the need for the leave is not foreseeable, the employee or his/her designee must give notice within two (2) work days of when the need becomes known. In requesting leave, employees shall not be required to use the words family and medical leave, but shall provide sufficient information to make the school division aware of the need for the leave. The school division shall inquire further of the employee if it is necessary to determine whether family and medical leave applies.

### **Certification of the Need for Leave**

The school division may require, and the employee must provide, certification of the need for family and medical leave. Such certification shall be provided on the form provided by the school division.

The medical certification for the employee's personal illness must identify the nature of the illness, the date the illness began and the projected return-to-work date. For leave to care for a child, spouse, or parent, the medical certification must include an estimate of the amount of time the employee is needed to provide care. At the School Board's discretion and expense, a second medical opinion may be required. Any dispute between the two opinions shall be resolved by the opinion of a third, jointly selected provider and paid for by the school division. Any recertification requested by the School Board shall be at the employee's expense.

## **Designation of Leave as Family and Medical Leave**

The division superintendent or his/her designee shall decide whether the employee qualifies for family and medical leave. The division superintendent or his/her designee shall designate family and medical leave qualifying leave as such and provide the employee a response within two (2) work days of the employee's request or if insufficient information is provided, as soon as sufficient information is provided. The response shall be provided on Attachment 3 and must inform the employee that paid leave shall be used concurrently with family and medical leave.

The school division may not designate leave as family and medical leave after the employee has returned to work unless:

1. the employee was absent for a family and medical leave qualifying event and the school division did not learn the reason for the leave until the employee's return to work and the school division designates the leave within two (2) work days of the employee's return to work; or
2. the employee was absent for a family and medical leave qualifying event and notifies the division within two work days of returning to work of the reason for the leave; or
3. the school division knew the reason for the leave but was unable to confirm that the leave was for a family and medical leave qualifying event, makes a preliminary designation and notifies the employee of such designation, then upon receipt of further information confirming that the leave qualifies as family and medical leave, the preliminary designation becomes final.

## **Benefits During Family and Medical Leave**

Employees on family and medical leave shall receive the group health insurance plan coverage on the same conditions as coverage would have been provided if the employee had been working during the period of leave. Other benefits shall be provided according to School Board policy for paid or unpaid leave, whichever applies.

## **Return to Work**

An employee on family and medical leave shall provide the school division at least two (2) work days notice of his intent to return to work. The employee shall be returned to the same or equivalent position at the end of the family and medical leave unless the school division shows that the employee would not otherwise have been employed at the time reinstatement is requested.

The following return-to-work provisions apply to instructional employees as defined above:

1. If an instructional employee begins family and medical leave more than five (5) weeks before the end of an academic term, the employee may be required to continue taking leave until the end of an academic term if the leave is at least three (3) weeks in duration and the return to work would occur during the last three (3) weeks of the academic term.
2. If an instructional employee begins family and medical leave for a purpose other than the employee's own serious health condition during the five (5) week period before the end of an academic term, the employee may be required to continue taking leave until the end of the academic term if the leave is longer than two (2) weeks in duration and the return to work would occur during the last two (2) weeks of an academic term.
3. If an instructional employee begins family and medical leave for a purpose other than the employee's own serious health condition during the three (3) week period before the end of an academic term, the employee may be required to continue taking leave until the end of an academic term if the leave is longer than five (5) working days in duration.

If 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 shall be counted against the twelve (12)

week family and medical leave entitlement. However, the school division must continue the group health insurance coverage under the same conditions as if the employee were working.