

Family and Medical Leave Federal Policy**REASONS**

His/her same position In compliance with the Family and Medical Leave Act of 1993 and under procedures developed by the Superintendent, leave shall be granted to eligible employees for the following reasons:

1. For the birth and care of an employee's newborn child or for placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, child, or parent who has a serious health condition, as defined by Federal Law;
3. For an employee's own serious health condition, as defined by Federal Law, that makes the employee unable to perform the employee's job;
4. To address a qualifying exigency (need) defined by Federal Regulation arising out of the active duty or call to active duty of a covered family member (spouse, son, daughter, parent or next of kin) who serves in a reserve component or as a retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered family member (spouse, son, daughter, parent or next of kin) who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces that may render the family member medically unfit to perform duties of his/her office, grade, rank, or rating.

NOTICES AND DEADLINES

- An employee must provide the employer at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered service member. All FMLA requests shall be made to the Superintendent. If 30 days' notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. Requests for family and medical leave should be made in writing but verbal requests may be made to the Superintendent who shall then document the request.
- When an employee requests FMLA leave, or when the district acquires knowledge that an employee's leave may be for an FMLA qualifying event, the district must give the employee notice of the employee's eligibility to take FMLA leave as well as their Rights and Responsibilities with respect to FMLA leave. Absent extenuating circumstances, this notice must be given within five (5) business days of district receipt of a request or the district being made aware of a potentially qualifying reason. The district may require that a request for leave be supported by a certification for health care or military-related situations as permitted by federal law, but such requirements must be set out in the required notice.
- When the district has enough information to determine whether leave is being taken for a FMLA-qualifying reason, then the employer must notify the employee of whether the leave will be designated and will be counted as FMLA leave. Absent extenuating circumstances, this notice must be given within 5 days of learning whether an FMLA reason supports the leave.
- Leave may be delayed if the employee does not provide proper notice. (30 days advance notice for a foreseeable leave); otherwise, notice as soon as the need becomes known).

ELIGIBILITY

Employees are eligible for up to twelve (12) workweeks of family and medical leave each school year, if they have been employed by the district for twelve (12) months, have worked at least 1,250 hours during the twelve (12) months preceding the start of the leave, and otherwise qualify for family and medical leave. When family and medical leave is taken to care for a service member's recovery from a serious illness or injury sustained in the line of duty, an eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve-month period.

Full-time teachers are presumed to have worked at least 1,250 hours during a school year. In determining whether returning veterans meet the minimum 1,250 hour standard, hours actually worked for the district during the twelve-month period are to be combined with hours they would have worked for the district had they not been called for military service.

In situations involving both the Americans with Disabilities Act (ADA) and FMLA, the district shall apply the Law affording the employee the greater benefit.

RESTRICTIONS

To the extent that an employee is entitled to any paid leave, such leave shall be taken and it shall run concurrently with family and medical leave. When an employee's work-related injury/medical state qualifies as a serious health condition, worker's compensation leave shall run concurrently with the twelve (12) work week entitlement.

Paid leave used by the employee as required under this policy shall count, as applicable, against the twelve (12) or twenty-six (26) FMLA workweek entitlement.

Entitlement to family and medical leave for the birth and care of a newborn child or placement of a child shall expire twelve (12) months after the date of such birth or placement.

When both husband and wife are employed by the district, the combined amount of family and medical leave for reasons other than personal illness or illness of a child shall be limited to twelve (12) workweeks. In cases of personal illness or illness of a child, each spouse is entitled to twelve (12) workweeks of family and medical leave.

Exception: The limit on the combined amount of family and medical leave shall be twenty-six (26) workweeks when both an eligible husband and wife are employed by the district and are eligible for leave that involves a covered Armed Forces Service member.

RULES APPLICABLE TO INSTRUCTORS IN PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM (SCHOOL SEMESTER).

There are different rules for instructional employees who begin leave more than five weeks before the end of the term, less than five weeks before the end of the term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

1. An instructional employee begins leave more than five weeks before the end of a term. The district may require the employee to continue taking leave until the end of the term if
 - i. The leave will last at least three weeks, and
 - ii. The employee would return to work during the three-week period before the end of the term.
2. The employee begins leave during the five-week period before the end of a term because of the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; or to care for a covered service member. The district may require the employee to continue taking leave until the end of the term if
 - i. The leave will last more than two weeks, and

- ii. The employee would return to work during the two-week period before the end of the term.
3. The employee begins leave during the three-week period before the end of a term because of the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a covered service member. The district may require the employee to continue taking leave until the end of the term if the leave will last more than five working days.

For purposes of these provisions, "academic term" means the school semester.

If an instructional employee is required to take 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 charged against the employee's FMLA leave entitlement.

INTERMITTENT LEAVE/REDUCED HOURS

When medically necessary, family and medical leave may be taken intermittently (when medically necessary) or on a reduced hours basis.

CONTINUATION OF BENEFITS

While on family and medical leave, employees shall be entitled to all employment benefits accrued prior to the date on which the leave commenced. Health insurance for an employee on family and medical leave shall continue to be provided by the district on the same basis had the employee not taken leave. Other employment benefits and seniority shall not accrue during unpaid family and medical leave. Employees on paid leave shall continue to accrue benefits and be eligible for advancement as though they were not on leave. Unused family and medical leave shall not accumulate from year to year.

If an employee fails to return to work after the leave period has expired and the employee is not on disability leave under the master contract, unless the failure to return is due to (1) the continuation, recurrence, or onset of either a serious health condition of the employee or the employee's family member, or a serious injury or illness of a covered service member, which would otherwise entitle the employee to leave under FMLA; or (2) other circumstances beyond the employee's control, the district will require the employee to reimburse the district's share of the health insurance premiums paid while the employee was on FMLA leave.

RETURN TO WORK

As noted by the required notice of eligibility and rights and responsibilities when family and medical leave is taken due to an employee's own serious health condition, the employee shall provide fitness-for-duty certification before returning to work. This may include certification by the health care provider that the employee is able to perform essential functions specific to the job, as noted by the district in a list attached to the certification form.

Upon return to work, the employee shall be entitled to an equivalent position with equivalent pay with corresponding benefits and other terms and conditions of employment.

NOTICE

The district shall notify employees of family and medical leave provisions by posting appropriate notices in conspicuous places in the Central Office and each worksite and distributing notices as required by Law.

Legal References: Public Law 103-3; "Family and Medical Leave Act of 1993."

Approved: April 13, 2009

Revised: June 13, 2011