

## FAMILY AND MEDICAL LEAVE REGULATION

Consistent with the federal Family and Medical Leave Act of 1993 (FMLA) as amended, the Board of Education shall provide up to twelve (12) workweeks of unpaid, job protected leave in a twelve (12) month period for its eligible employees. In addition, FMLA provides eligible employees with twenty-six (26) workweeks of leave in a single 12-month period to care for a covered service member with a serious illness or injury incurred in the line of duty.

An eligible employee must have been employed for at least twelve (12) months, have worked at least one thousand two hundred fifty (1,250) hours during the prior twelve (12) months, and be employed at a worksite where at least fifty (50) employees are employed by that employer within a seventy-five (75) mile radius of that worksite.

### **Right to Benefits During Leave**

An eligible employee is entitled to a total of twelve (12) workweeks of unpaid, job protected family and medical leave. Any employee who uses the unpaid, job protected leave shall have his/her health benefits continued during the leave, shall not have any previously accrued benefits altered and shall be returned to an equivalent position according to established Board policies and collective bargaining agreements. The accrual of seniority shall remain in effect during the course of this medical or family leave, provided that this leave does not exceed twelve (12) weeks in a year, and provided that the employee returns from the leave, unless such failure to return is a result of the continuation, recurrence, or onset of a serious health condition, or is due to circumstances beyond the control of the employee.

The District requires, an employee shall use available paid leave time for purposes of a family or medical leave. However, an employee may only use accrued paid leave in accordance with the applicable collective bargaining agreement.

### **Family and Medical Leave**

Family leave is available when a child is born to the employee, adopted by an employee or one is placed with the employee for foster care. Medical leave is available in order for the employee to take care of a spouse, child, parent who has a serious health condition, when the employee has a serious health condition rendering him/her unable to perform the functions of the employee's job. Military caregiver leave is available to employees who are family members of covered service members with a serious illness or injury incurred in the line of duty on active duty. Additionally, this applies to covered veterans who require care and have been other than dishonorably discharged from service within the last five (5) years.

Military caregiver leave is a special entitlement that allows the employee to extend FMLA leave to 26 workweeks. Qualifying exigency leave is available to employees when a family member is notified of impending call or called to active duty.

A child shall include any individual whether biological, adopted, a foster child, a stepchild, a legal ward, or a child standing in loco parentis who is under eighteen years of age or, if over eighteen, is incapable of self-care due to a mental or physical disability. A parent shall include the biological parent of the employee or an individual who stood in loco parentis to the employee when he/she was a child. Next of kin shall mean the nearest blood relative other than spouse, parent, son, daughter, as defined in federal regulation.

A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Family leave must be taken within one year of the birth or placement of the employee's child. If both spouses are employed by the district, the combined amount of leave for family leave or medical leave may be limited to twelve weeks.

### **Notice to Take Leave**

The employee shall notify the district of his/her request for family or medical leave at least 30 days prior to the date when the leave is to begin, when such leave is foreseeable. If such leave is not foreseeable then notice shall be given as early as is practical. If the employee requests medical leave, reasonable attempts shall be made to schedule treatment so as not to disrupt the district's operations.

Employees, absent unusual circumstance, must comply with the district's usual and customary notice and procedural requirements for requesting leave.

### **Intermittent Leave**

When it is medically necessary, employees may take FMLA leave intermittently, taking leave in separate blocks of time for a single qualifying reason, or on a reduced leave schedule, reducing the employee's usual weekly or daily work schedule. 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 employer's operation. Leave to care for or bond with a newborn child or for a newly placed adopted or foster child may only be taken intermittently with the employer's approval and must conclude within 12 months after the birth or placement.

The district may transfer the employee to a comparable position if it will better accommodate such intermittent periods of leave. For instructional employees who request medical leave and it is foreseeable that the medical treatment shall cause the employee to be on leave for more than 20% of the total number of working days in the period of leave, the district may require the employee to take a block of time or to transfer to an equivalent position for which the employee is qualified, but which better accommodates intermittent periods of leave.

### **Military Leave: Leave Related to Active Duty or a Call to Active Duty**

If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on active duty or has been notified of an impending call to active duty is foreseeable, the employee shall give such notice to the district as soon as is reasonable and practicable.

The School Board may require that a request for leave because of a qualified exigency arising from the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call to active duty be supported by a certification issued in accordance with regulations.

### **Certification**

The district may require the employee requesting medical leave to present a certification from the health care provider of the person for whom the employee is taking the leave. Upon request by the district, the employee must provide the certification within fifteen (15) days. The certificate shall include:

1. the date on which the serious health condition commenced;
2. the probable duration of the condition;
3. the appropriate medical facts within the knowledge of the health care provider regarding the condition;
4. a statement that the employee is needed to care for the family member and an estimate of the amount of time that such employee shall be needed or a statement that the employee is unable to perform the functions of the employee's position; and
5. the dates and duration of medical treatment if the request for intermittent leave is for a planned medical treatment.

If the district doubts the validity of the certification, then, at the district's expense, a second opinion may be required from a health care provider selected by the district. The school physician cannot give this opinion. If the two opinions conflict, a third health care provider, at the district's expense, may be chosen by the two parties to render a final opinion.

### **Restoration**

As to instructional employees, if leave begins more than five (5) weeks prior to the end of a semester, the employee may be required to continue the leave until the end of the semester if

- 1) the leave is for at least three (3) weeks and
- 2) the employee's return to work would occur during the three (3) week period prior to the end of the semester

If the leave is requested within five (5) weeks of the end of the semester, the instructional employees may be required to continue on leave until the end of the semester if

1. the leave is longer than two (2) weeks and
2. the employee would return from the leave within two (2) weeks of the end of the semester

Instructional employees whose family or medical leave extends past five (5) days and begins during the three (3) week period prior to the end of the semester may be required to take the leave until the end of the semester. This does not apply to medical leave for the employee's own serious health condition.

Any additional leave required by the employer to the end of the school term is not counted as FMLA leave; however, the employer shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave

#### **Failure to Return**

The district may recover the health care premiums paid during the leave if the employee fails to return from the leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence, or onset of a serious health condition or due to circumstances beyond the control of the employee.

#### **Effect on Existing Laws or Agreements**

The Board shall ensure that family and medical leave, consistent with the Family and Medical Leave Act, is provided to all eligible employees. Any collective bargaining agreement which contains greater leave benefits than this policy shall remain in force.

#### **Notice of Policy**

The district shall post a notice prepared or approved by the Secretary of Labor stating the pertinent provisions of the Family and Medical Leave Act, including information concerning enforcement of the law.

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