

Personnel -- Certified/Non-Certified

Personal Leaves

Family and Medical Leave Act

The Board will provide leave to eligible employees consistent with the Family and Medical Leave Act of 1993 (FMLA) as amended. Eligible employees are entitled to up to 12 work weeks of unpaid family and medical leave in any 12-month period. The district will continue to pay the district's share of the employee's health benefits during the leave. In addition, the district will restore the employee to the same or an equivalent position after the termination of the leave in accordance with Board policy and collective bargaining agreements.

Paraprofessionals are also eligible to benefits equal to those under the federal FMLA if such paraprofessional was employed for at least one year and for at least 950 hours over the previous twelve month period preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

Eligible employees are entitled to take unpaid leave for a covered family member's service in the Armed Forces, for any one or for a combination of the following reasons:

- A "qualifying exigency" as defined by Department of Labor regulations arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan;
- To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that such duty or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating.
- To care for a covered family member who is a veteran who is undergoing medical treatment, recuperation or therapy for a service related illness or injury that was incurred or aggravated while on active duty and manifested itself before or after the member became a veteran, within five years after a veteran leaves service; and/or
- To care for a parent of a military member called to active duty provided the military member is the spouse (including same-sex marriages), parent or child of the employee.

When leave is due to a "qualifying exigency" of a service member, an eligible employee may take up to 12 work weeks of leave during any 12 month period. When such leave is to care for an injured or ill service member, an eligible employee may take up to 26 work weeks of leave during a single 12 month period to care for the service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12 month period.

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Employees will not be deprived of any employment benefits accrued before taking FMLA leave. Conversely, employees on FMLA leave are not entitled to accrue any seniority or benefits during the leave unless determined otherwise due to a collective bargaining agreement. When an employee returns from FMLA leave, benefits will be resumed in the same manner as provided prior to taking the leave, subject to any changes in benefit levels that may have occurred during the FMLA leave period and which affect the entire work force.

The Board, in compliance with state statute, shall provide to its employees who are a party to a civil union with the same family and medical leave benefits under the federal Family Medical Leave Act (FMLA) as are provided to employees who are party to a marriage. The term “marriage” includes a same-sex marriage that is legally recognized in Connecticut. In addition, the Board shall allow its employees leave time under this policy to serve as organ or bone marrow donors.

(cf. 4118.14 - Disabilities)

(cf. 4151.2 - Family Illness)

(cf. 4152.3 - Maternity; Adoptive; Child Care)

Legal Reference: P.L. 103-3 and 29 CFR Part 825 - The Family and Medical Leave Act of 1993, as amended by H.R. 4986, the National Defense Authorization Act for Fiscal Year 2008, Section 585.
Final Rule - published in Federal Register, Vol. 60, Nov. 4, Friday, January 6, 1995, as amended on February 3, 1995 and on March 30, 1995.
Rules and Regulations (29CFR Part 825)
Final Rule – published in Federal Register, Vol. 78, Wed. February 6, 2013.
Connecticut General Statutes
46b-3800 Applicability of statutes to civil unions and parties to a civil union
PA 07-245 An Act Concerning Family and Medical Leave for Municipal Employees
PA 12-43 An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees
United States v. Windsor, U.S. 133 S. Ct. 2675 (2013)

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MARLBOROUGH PUBLIC SCHOOLS
Marlborough, Connecticut

Posting Notice for FMLA Leave for Paraprofessionals

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Appendix

Basic Leave Entitlement

FMLA Requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 12 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember of undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a political subdivision for at least one year and for 950 hours over the previous 12 months.

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Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures. Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.

Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and period recertification supporting the need for leave.

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Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the Connecticut Department of Labor. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave.

Sections 31-51r through 31-51w of the Connecticut General Statutes
(An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees)

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Family and Medical Leave Act

The following administrative regulations apply only to the Family and Medical Leave Act (FMLA).

For purposes of this regulation, the term “marriage” is defined to include a same-sex marriage that is legally recognized as a marriage under state law in Connecticut.

For purposes of this regulation, the term “spouse” refers to any individuals who are lawfully married under any state law, including individuals married to a person of the same sex who were legally married in a state that recognizes such marriage, but whose domicile (permanent residence) is in a state that does not recognize such marriages.

Eligibility

An employee who has worked for the district for at least 12 months is eligible for 12 work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave. The 12 months of employment need not be consecutive months. Hours worked includes all hours, including overtime, an employee works but does not include paid leave time such as vacations, sick or personal leave, holidays etc. Full time professional instructional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement. Pursuant to USERRA, an employee returning from fulfilling his/her National Guard or Reserve military obligation shall be credited with the hours of service that would have been performed but for the period of military service in determining whether he/she worked the 1,250 hours of service in the District. (§825.110)

Paraprofessionals are also eligible to benefits equal to those under the federal FMLA if such paraprofessional was employed for at least one year and for at least 950 hours over the previous twelve month period preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

For purposes of FMLA leave a 12-month period is the 12-month period measured forward from the date of an employee's first FMLA leave date. The 12 months of employment need not be consecutive months.

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Family and Medical Leave Act (continued)

Serious Health Condition

A "serious health condition" that would entitle an employee to FMLA leave is one involving continuing treatment by a health care provider that results in a period of incapacity of more than three consecutive calendar days and involves either treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion followed by a regimen of continuing treatment under the supervision of the health care provider.

Over the counter medication, bed rest, taking of fluids, exercise and other activities that can be initiated without a visit to a health care provider do not constitute continuing treatment.

Chronic conditions such as asthma and diabetes are considered a serious health condition even if individual episodes of incapacity do not last more than three days. Furthermore, conditions need not be chronic or long term when the condition is one which is not ordinarily incapacitating but for which multiple treatments are given because the condition would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention. Regarding long-term chronic conditions, the condition need not be incurable. The condition may involve a permanent or long-term incapacity and be one for which treatment may not be effective. (29 C.F.R. 825.114.)

Health Care Provider

The definition of "health care provider" includes any health care provider recognized by the employer or accepted by the group health plan of the employer. It also includes clinical social workers. (29 C.F.R. 825.118.)

Types of Leave

An eligible employee may take FMLA leave for:

- the birth and first-year care of a child;
- the adoption or foster placement of a child;
- the serious illness of an employee's spouse, parent or child;
- the employee's own serious health condition that keeps the employee from performing the essential functions of his/her job;
- to care for an eligible member* of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, or is otherwise on the temporary disability list for a serious injury or illness;

* spouse, son, daughter, parent or next of kin

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Types of Leave (continued)

- a qualifying exigency as defined by Department of Labor regulations of a spouse, child, or parent of the employee who is on active duty in the Armed Forces or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation; and
- a veteran suffering a service related illness or injury that was incurred or aggravated while on active duty (or existed before the beginning of the service member's active duty and was aggravated by service in the line of duty on active service) within five years after a veteran leaves service.

An employee may elect, or the district may require, an employee to use accrued paid vacation, personal or family leave for purposes of a family leave. An employee may elect, or the district may require, an employee to use accrued vacation, personal or medical/sick leave for purposes of a medical leave. An employee cannot compel the district to permit the employee to use accrued medical/sick leave in any situation which the leave could not normally be used.

All FMLA absences for the same qualifying reason are considered a single leave and the employee maintains eligibility as to that reason for leave throughout the applicable 12-month period.

An eligible employee for FMLA leave must receive at the time of their eligibility notice a written notice of "Rights and Responsibilities" detailing their specific expectations and obligations and explaining the consequences of their failure to meet these obligations. This notice shall include any requirement to provide medical certification, the right to substitute paid leave, payment for benefits and job restoration rights upon expiration of the leave.

Spouses Employed by the School District

If spouses, as defined in this regulation, eligible for leave are employed by this school district, their combined amount of leave for birth, adoption, foster care placement and parental illness may be limited to 12 weeks. An employee may not take FMLA leave to care for a parent-in-law.

Unforeseeable, Continuous, Intermittent and Reduced Leave

Unforeseeable leave involves situations such as emergency medical treatment or premature birth.

Continuous leave is taken for a set number of days or weeks.

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

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Unforeseeable, Continuous, Intermittent and Reduced Leave (continued)

Reduced leave is a leave schedule that reduces employee's usual number of hours per work week, or hours per work day.

Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent. Such leave may not be used for the birth or adoption/placement of a child or to care for a newborn or recently adopted child. In the case of foreseeable intermittent or reduced leave, the employee must schedule the leave to minimize disruption to the district's operation.

The employee who wishes to use intermittent or reduced leave shall, whenever possible, give prior notification to the district. Although the district and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave but the district may transfer the employee to a position which is equivalent, but more suitable for intermittent periods of leave provided said leave amounts to more than twenty (20) percent of the total number of working days in the period during which the leave would extend. The employee must furnish the district with the expected dates of the planned medical treatment and the duration of the treatment. The superintendent must authorize such leave in writing.

Employee Entitlement to Service Member FMLA

The federal FMLA entitles eligible employees to take leave for a covered family member's service in the Armed Forces. Except as listed in this section, an employee's rights and obligations to service member FMLA leave are governed by existing FMLA policy and regulations.

Service member FMLA provides eligible employees unpaid leave for a covered family member's service in the Armed Forces, for any one or for a combination of the following reasons:

- A "qualifying exigency" arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan; and/or
- To care for a covered family member who has incurred a serious injury or illness in the line of duty while on active duty in the Armed Forces including a member of the National Guard or Reserves, provided that such duty or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating.

When leave is due to a "qualifying exigency" of a service member, an eligible employee may take up to 12 work weeks of leave during any 12 month period.

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Employee Entitlement to Service Member FMLA (continued)

When such leave is to care for an injured or ill service member, an eligible employee may take up to 26 work weeks of leave during a single 12 month period to care for the service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12 month period.

Service member FMLA runs concurrent with any other leave entitlements provided under federal, state or local law.

Definitions

Active Duty: Duty under a call or order to active duty under a provision of law referred to in 10 U.S.C. §101(a)(13)(B).

Contingency Operation: Has the same meaning given such term in 10 U.S.C. §101(a)(13).

Covered Service Member: A 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.

Next of Kin: The nearest blood relative of an individual.

Outpatient Status: With respect to a covered service member, this means the status of a member of the Armed Forces assigned to:

- (a) a military medical treatment facility as an outpatient; or
- (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Leave to Care for a Covered Service Member

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall:

1. make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the district; and
2. provide the district with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

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Leave to Care for a Covered Service Member (continued)

The Board of Education may require that a request for leave to care for a covered service member be supported by a certification issued by the health care provider of the person in need of care. The employee shall provide, in a timely manner, a copy of such certification to the district.

Certification will be sufficient if it states:

1. the date on which the serious health condition or serious injury or illness commenced;
2. the probable duration of the condition; and
3. the appropriate medical facts within the knowledge of the health care provider regarding the condition.

If leave is to be taken on an intermittent or reduced leave schedule for planned medical treatment, the certification must contain the dates on which such treatment is expected to be given and the duration of such treatment.

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 is reasonable and practicable.

The 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 issued by the Secretary of Labor. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the school district.

Benefits

The district will maintain the employee's health coverage under the district's group health insurance plan during the period of FMLA leave. The employee should make arrangements with the district to pay the employee's share of health insurance (e.g. family coverage) prior to the beginning of the FMLA leave.

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Benefits (continued)

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

Notice

When the FMLA leave is foreseeable, the employee must notify the district in writing of his/her request for leave at least 30 days prior to the date when the leave is to begin. Failure to give notice may result in the leave beginning thirty days after notice was received. If the leave is not foreseeable, the employee must give notice as early as is practical but no later than one to two work days after learning that leave will be necessary. A spouse or family member may give the notice if the employee is unable to personally give notice. When the employee requests medical leave, the employee must make reasonable attempts to schedule treatment so as not to disrupt the district's operations.

The district, when a request for FMLA leave is received, will provide the employee the following information, listing the employee's obligations and requirements:

1. A statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement.
2. A reminder that employees requesting family and medical leave for a serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so.
3. An explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to the substitution.
4. A statement notifying employees for paying any premium or other payments to maintain health or other benefits.

The district may deny the leave if the employee does not meet the notice requirements.

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Family and Medical Leave Act (continued)

Certification

The district shall require the employee to provide certification of the employee's serious health condition from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification a second, and, if necessary, a third opinion can be required both at the expense of the district. The district shall also require the employee to present medical certification of the family member's serious health condition and that it is medically necessary for the employee to take leave to care for the family member.

If the leave was for reasons related to the employee's serious health condition, upon the employee's return to work, the district will require that the employee present a fitness statement from the employee's health care provider certifying that the employee is able to return to work.

The required certifications must be obtained from the health care provider who is treating the individual with the serious health condition.

Medical certification must be provided fifteen days after the request for medical certification unless it is impracticable to do so. Employees taking family and medical leave for the birth, adoption or foster care of a son or daughter are not required to obtain a medical certification. The District may request recertification every thirty days. Recertification must be submitted within fifteen days of the District's request.

Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification shall be denied until such certification is provided.

Verification must also be presented when requesting FMLA leave to care for the employee's spouse, son, daughter or parent with a serious health condition.

Restoration

An employee's right to return to the same or an equivalent position is contingent upon the employee's continued ability to perform all the essential functions of the position.

When the employee returns from leave, the district will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment shift, and geographically proximate workplace in accordance with board policy. Employees are entitled to any unconditional pay increase, such as cost of living increases, that occur during the period to their FMLA leave.

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Restoration (continued)

Under certain circumstances, the district may deny restoration to a key employee. The district will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the district to experience a substantial and grievous economic injury.

Further, the district may deny restoration to an employee if the district shows that the employee would not otherwise be employed at time of reinstatement for reasons such as layoff, shift or special project elimination. In addition, collective bargaining agreements between the board and employee groups will not diminish the rights of the employee established by FMLA.

A returning employee cannot be restored to a position that requires additional licensure of certification.

Instructional Employees

Special rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a small group, or an individual setting. This term includes teachers, athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is

- to care for a family member, or
- for the employees own serious health condition and
- is foreseeable based on planned medical treatment (i.e. chemotherapy, prenatal visits, physical therapy etc.) and
- the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend,

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Instructional Employees (continued)

then the district may require the employee to choose either to:

- (1) take the leave for a period of a particular duration, not greater than the duration of the planned treatment; or
- (2) transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position. However, an instructional employee cannot be transferred to an alternative position when the employee takes intermittent leave that amounts to twenty (20) percent or less of the total number of working days in the period during which the leave would extend.

Intermittent leave is not available to take care of a newborn or recently adopted child.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five weeks before the end of a semester the district may require the employee to continue taking leave until the end of the semester if:

- (1) the leave will last at least three weeks, and
- (2) the employee would return to work during the three-week period before the end of the semester.

An instructional employee, required to extend his/her leave by the district, shall not have the "extra" leave counted against the employee's 12 workweek entitlement unless the employee requests said additional leave be counted against the FMLA entitlement

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the district may require the employee to continue taking leave until the end of the semester if

- (1) the leave will last more than two weeks, and
- (2) the employee would return to work during the two-week period before the end of the semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester, and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

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Instructional Employees (continued)

Leave may not be counted against an employee during times (vacation periods) when they are not normally required to work.

When the employee is required to take leave until the end of the semester, only the time until the employee is “ready and able” to work shall be charged to FMLA leave.

Failure to Return

The district is entitled to recover health care premiums paid during the leave if the employee fails to return from 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.

Regulation approved: August 24, 2000
Regulation revised: November 20, 2008
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MARLBOROUGH PUBLIC SCHOOLS
Marlborough, Connecticut

Summary of Family and Medical Leave Act

The purpose of the Family and Medical Leave Act is to provide an unpaid leave of absence which enables employees to be absent from work for up to 12 work weeks without losing certain benefits. Such requests must be submitted in writing to the superintendent. Such requests will be approved in accordance with the procedure outlined below and in compliance with the Family and Medical Leave Act.

Eligible Employees

Employees are eligible for family and medical leave under the Family and Medical Leave Act of 1993 if these criteria are met:

1. The employee has worked for the District for at least twelve months or 52 weeks. (The months and weeks need not be consecutive.)
2. The employee has worked at least 1,250 hours within the previous year. Full time professional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement.

Eligible Reasons for Family and Medical Leave

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
2. Because of the placement of a son or daughter with the employee for adoption or foster care.
3. In order to care for the spouse, or a son, daughter or parent of the employee if the spouse, son, daughter or parent has a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

Employee Obligations

When an employee requests family and medical leave, the school district will provide the employee with information listing the employee's obligations and requirements. Such information will include:

1. A statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement.
2. A reminder that employees requesting family and medical leave for a serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so.

Summary of Family and Medical Leave Act

Employee Obligations (continued)

3. An explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to the substitution.
4. A statement notifying employees for paying any premium or other payments to maintain health or other benefits.

Types of Leave

1. Foreseeable family and medical leave
 - a. Definition - Leave is foreseeable for the expected birth or placement of a child or for planned medical treatment.
 - b. The employee must give at least thirty days' notice for foreseeable leave. Failure to give the notice may result in the leave beginning thirty days after notice was received.
 - c. An employee must consult with the District prior to scheduling planned medical treatment to minimize disruption to the District. The scheduling of the planned medical treatment is subject to the approval of the health care provider.
2. Unforeseeable family and medical leave
 - a. Definition - Leave is unforeseeable in such situations as emergency medical treatment or premature birth.
 - b. An employee must give notice as soon as possible but no later than two work days after learning that leave will be necessary.
 - c. a spouse or family member may give the notice if the employee is unable to personally give notice.
3. Continuous, intermittent, and reduced leave
 - a. Continuous - Employee will not report to work for a set number of days or weeks.
 - b. Intermittent - Employee requests family and medical leave for separate period of time.
 - c. Reduced - Employee's usual number of working hours per work week or hours per day are reduced.

Summary of Family and Medical Leave Act

Types of Leave (continued)

- d. Intermittent and Reduced Leave
- (1) Intermittent leave is available for the serious health condition of the employee, spouse, parent or child when medically necessary.
 - (2) In the case of foreseeable intermittent or reduced leave, the employee must schedule the leave to minimize disruption to the District's operation.
 - (3) During the period of foreseeable intermittent or reduced leave, the District may temporarily move the employee to an alternative position with equivalent pay and benefits that would better accommodate recurring periods of leave, provided the leave amounts to more than twenty (20) percent of the total number of working days in the period during which the leave would extend.

4. Service Member Family and Medical Leave

The federal FMLA entitles eligible employees to take leave for a covered family member's service in the Armed Forces. Except as listed in this section, an employee's rights and obligations to service member FMLA leave are governed by existing FMLA policy and regulations.

Service member FMLA provides eligible employees unpaid leave for a covered family member's service in the Armed Forces, for any one or for a combination of the following reasons:

- A "qualifying exigency" as defined by Department of Labor regulations arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan; and or
- To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that such duty or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating.

When leave is due to a "qualifying exigency" as defined by Department of Labor regulations of a service member, an eligible employee may take up to 12 work weeks of leave during any 12 month period.

When such leave is to care for an injured or ill service member, an eligible employee (spouse, son, daughter, parent or next of kin) may take up to 26 work weeks of leave during a single 12 month period to care for the service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12 month period.

Service member FMLA runs concurrent with any other leave entitlements provided under federal, state or local law.

Summary of Family and Medical Leave Act

Use of Paid Leave

Employees may be required to use paid leave and vacation days at the start of the leave. The remainder of the days will be unpaid. Employees may elect to substitute accrued paid leave for unpaid family and medical leave.

Medical Certification

1. An employee shall be required to present medical certification of the employee's serious health condition and inability to perform the functions of the position of the employee.
2. An employee shall be required to present medical certification of the family member's serious health condition and that it is medically necessary for the employee to take leave to care for the family member.
3. An employee must obtain the certification from the health care provider who is treating the individual with the serious health condition.
4. The District may require the employee to obtain a second certification by a health care provider chosen by and paid for by the District if the District has reason to doubt the validity of the certification an employee submits. The second health care provider cannot, however, be employed by the District on a regular basis.
5. If the second health care provider disagrees with the first health care provider, then the District may require a third health care provider to certify the serious health condition. This health care provider must be mutually agreed upon by the employee and the school district and paid for by the school district. This certification or lack of certification is binding upon both the employee and the District.
6. Medical certification must be provided fifteen days after the request for medical certification unless it is impracticable to do so. Employees taking family and medical leave for the birth, adoption or foster care of a son or daughter are not required to obtain a medical certification. The District may request recertification every thirty days. Recertification must be submitted within fifteen days of the District's request.
7. Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification shall be denied until such certification is provided.
8. Any absence for illness for more than three (3) working days must be verified by a medical doctor. Verification must also be presented when requesting FMLA leave to care for the employee's spouse, son, daughter or parent with a serious health condition.

Summary of Family and Medical Leave Act

Continuation of Benefits

The employer must, if the employee elects to do so, maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee remained at work for the twelve week period. Accruals for vacation, sick and holiday pay will be suspended during the leave and will resume upon return to active employment. Should an employee fail to return from a leave taken pursuant to the Family and Medical Leave Policy, the District may recover any premiums it has paid for maintaining group insurance during the employee's leave unless the employee's failure to return is prevented by a continuation of the employee's serious health condition or that of an affected relative or circumstances beyond the employee's control.

Employee and Spouse both Employed by District

If an employee and the employee's spouse are both employed by the District and a leave is taken for the birth, adoption or foster care of a son or daughter, or the care of a parent, the duration of the leave taken by both the employee and the spouse must not exceed 12 weeks in total.

Position Upon Return to Work

Upon return from leave, the employee will be restored to the employee's former position or an equivalent position with similar duties, hours and pay. The provisions of the Family and Medical Leave Policy are intended to comply with applicable law, including the Family and Medical Leave Act of 1993 ("FMLA") and applicable regulations. Any terms used from the FMLA will be defined by that Act and/or applicable regulations. To the extent that this Policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.

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REQUEST FOR FAMILY/MEDICAL LEAVE

Employee Name: _____ Date of Request: _____

Department: _____ Position Title: _____

Hire Date: _____

I request a Family/Medical Leave for the following reason (check one):

_____ A. The birth of a child and in order to care for such child or the placement of a child for adoption or foster care.

_____ B. In order to care for an immediate family member if such family member has a serious health condition. Circle one: CHILD SPOUSE* PARENT (**Must submit "Physician or Practitioner Certification" within 15 days**)

_____ C. Employee's own serious health condition that makes the employee unable to perform the functions of his/her position. (**must submit "Physician or Practitioner Certification" within 15 days**)

a "qualifying exigency" arising from my spouse*, child, parent, being on active duty or ordered to active duty in the Armed Forces, or

the need to care for a wounded service member affecting spouse*, child, parent,

myself or next-of-kin.

Method of Leave Requested

_____ A. Consecutive Leave

_____ B. Intermittent or Reduced Leave Schedule (Specify Schedule Below)

Date leave is to begin: _____ Expected duration of leave: _____

If the duration of my family/medical leave (total of paid and unpaid time) does not exceed 12 weeks, I will be returned to my same or equivalent position. I understand that if my family/medical leave should exceed 12 weeks, I will be returned to my same or similar position, only if available, in accordance with applicable laws. If my same or similar position is not available, I understand that I may be terminated.

Employee Signature

Date

* The term spouse includes partners in same-sex marriage

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**PHYSICIAN OR PRACTITIONER CERTIFICATION
FAMILY MEMBER - SERIOUS HEALTH CONDITION
(Family and Medical Leave Act of 1993)**

- 1. Employee's Name: _____

- 2. Patient's Name (If other than employee): _____

- 3. Diagnosis: _____

- 4. Date condition commenced: _____

- 5. Probable duration of condition: _____

- 6. Regimen of treatment to be prescribed (Indicate number of visits, general nature and duration of treatment, including referral to other provider of health services. Include schedule of visits of treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week):
 - A. By Physician or Practitioner: _____

 - B. By other provider of health services, if referred by Physician or Practitioner:

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**PHYSICIAN OR PRACTITIONER CERTIFICATION
EMPLOYEE - SERIOUS HEALTH CONDITION
(Family and Medical Leave Act of 1993)**

1. Employee's Name: _____

2. Diagnosis: _____

3. Date condition commenced: _____

4. Probable duration of condition: _____

5. Regimen of treatment to be prescribed (Indicate number of visits, general nature and duration of treatment, including referral to other provider of health services. Include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week):

A. By Physician or Practitioner: _____

B. By other provider of health services, if referred by Physician or Practitioner:

Check Yes or No below, as appropriate

Yes No

6. Is inpatient hospitalization of the employee required?
7. Is employee able to perform work of any kind? (If "No", skip Item 9.)
8. Is employee able to perform the functions of employee's position? (Answer after reviewing statement from employer of essential functions of employee's position, or if none provided, after discussing with employee.)
9. Signature of Physician or Practitioner: _____
10. Date: _____
11. Type of Practice (Field of Specialization, if any): _____

12. Employee signature: _____
13. Date: _____

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Response to Leave Under The Family and Medical Leave Act of 1993

TO: _____
(Employee's name)

FROM: _____
(Name of appropriate employer representative)

SUBJECT: Request for Family/Medical Leave

On _____, you notified us of your need to take family/medical leave due to:
(Date)

- the birth of a child, or the placement of a child for adoption or foster care; or
- a serious health condition that you need care for, or
- a serious health condition affecting your ___spouse*, ___child, ___parent, for which you are needed to provide care.
- a "qualifying exigency" arising from my spouse*, child, parent, being on active duty or ordered to active duty in the Armed Forces, or
- the need to care for a wounded service member affecting spouse*, child, parent,
- myself or next-of-kin.

You notified us that you need this leave beginning on _____, and that
(Date)

you expected the leave to continue until on or about _____.
(Date)

Except as explained below, you have a right under the FMLA to receive up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (check appropriate boxes; explain where indicated)

1. You are ___eligible ___not eligible for leave under the FMLA or Service Member FMLA.
2. The requested leave ___will ___will not be counted against your annual FMLA leave entitlement.

* *The term spouse includes partners in same-sex marriage.*

3. You ___will ___will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by _____ (insert date) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. We ___will ___will not require that you substitute accrued paid/unpaid leave for unpaid FMLA leave. If accrued leave will be used, the following conditions will apply: (Explain which leave will be substituted and any other relevant conditions.)

5. (a) If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.)

(b) You have a 30-day grace period in which to make payment. If payment has not been made timely, your group health insurance may be cancelled or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

(c) We ___will ___will not pay your share of the premiums for your health insurance while you are on leave.

6. You ___will ___will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until such certification is provided.

7. (a) You ___are ___are not a "key employee" as described in 825.218 of the FMLA regulations. If you are a "key employee", restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b) We ___have ___have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (Explain (a) and/or (b) below.)

8. You will will not be required to furnish us with periodic reports of your status and intent to return to work every 30 days while on FMLA leave.

9. You will will not be required to furnish recertification every 30 days relating to a serious health condition. (Explain below, if necessary.)

This response should be used in all cases, even if notice has only been given verbally.