

SECTION: PERSONNEL

TITLE: **Family and Medical Leave Policy**

<p>1. Purpose</p> <p>2. Eligibility</p>	<p>In accordance with the Family and Medical Leave Act of 1993 (The FMLA) the Wilson Area School District affords its eligible employees FMLA leave as set forth in this policy.</p> <p>All employees who have been employed by the district for at least twelve (12) months and have worked at least 1,250 hours during the previous work year (July 1 to June 30) are eligible for family and/or medical leave of absence.</p> <p>Eligible employees may take up to twelve (12) weeks of unpaid leave in any 12-month period under four circumstances that are critical to the life of a family. Leave may be taken:</p> <ol style="list-style-type: none"><li>1. Upon the birth of the employee's child or in order to care for such child;</li><li>2. Upon the placement of a child with the employee for adoption or foster care;</li><li>3. When the employee is needed to care for a child, spouse, or parent who has a serious health condition; or</li><li>4. When the employee is unable to perform the function of his or her position because of a serious health condition.</li></ol> <p><b>Employees on leave to care for a covered service member shall be provided up to twenty-six (26) weeks of leave in a twelve-month period.</b></p> <p><b>FMLA permits a "spouse, son, daughter, parent, or next of kin" to take up to twenty-six (26) weeks of unpaid leave in one (1) year to care for 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."</b></p> <p><b>FMLA permits up to twenty-six (26) weeks of unpaid leave in one (1) year to family members (spouse, son, daughter, parent, or next of kin) of veterans for up to five (5) years after a veteran leaves service if he or she develops a service-related injury or illness incurred or aggravated while on active duty.</b></p> <p><b>FMLA provides up to twelve (12) weeks of unpaid, job-protected</b></p>
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<p>3. Definitions</p>	<p><b>leave per year because of a “qualifying exigency arising from the fact that the spouse, son, daughter, or parent of an employee is on active duty or has been notified of an impending call or order to active duty”</b></p> <p>“Serious Health Condition” is defined as an illness, injury, impairment or mental condition involving either in-patient care or continuing treatment by a health care provider for a chronic or long-term condition.</p> <p>“Health Care Providers” include doctors of medicine, osteopathy or any other person determined by the Secretary of Labor to be capable of providing health care services.</p> <p>“Employment Benefits” include all fringe benefits provided to the employee by the district, including group life insurance, health insurance and sick leave.</p> <p>“Parent” means the biological parent or an individual who stood in loco parentis to an employee when the employee was a child.</p> <p>“Child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.</p> <p>“Spouse” means a husband or wife.</p> <p>“Twelve-Month Period” means July 1 to June 30.</p> <p>“Return to Service” means that the employee is able to return to active employment and shall be returned to the same or an equivalent position with equivalent employee benefits and compensation and other conditions of employment.</p> <p><b><u>Exception:</u></b></p> <p>If the employee on leave is a salaried employee and is among the highest paid ten percent of district employees, and keeping the job open for the employee would result in substantial and grievous economic injury to the district, reinstatement of the employee on leave can be denied. In this situation, however, the employee will be given an opportunity to return to other work which may be available in this district.</p> <p>“Equivalent” means substantially the same but not exactly equal.</p> <p><b><u>Requirements:</u></b></p> <p>The district will require medical certification to support a claim for leave for an employee’s own serious health condition or to care for a seriously ill child, spouse, or parent. For an employee’s own medical leave, the certification must include a statement that the employee is</p>
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unable to perform the functions of his or her position.

For leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care.

At its discretion, the district may require a second medical opinion (paid at district expense) and periodic re-certifications (paid at employee expense) as well as fitness-for-duty (at employee expense). If the first and second opinions differ, the district, at its own expense, may require the binding opinion of a third health care provider.

The employee shall make a reasonable effort to schedule the necessary medical treatment so as not to disrupt unduly the operations of the district, subject to the approval of the health care provider of the employee or the health care provider of the child, spouse, or parent of the employee, as appropriate. A thirty (30) day notice before the date the leave is to begin shall be provided where practicable.

Leave may be taken on an intermittent schedule if medically necessary for a serious health condition of the employee or his or her spouse, child, or parent. If leave is requested on this basis, however, the district may require the employee to (a) transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits, but not equivalent duties, or (b) to take a block of leave for a period or periods of particular duration, not to exceed the duration of planned medical treatment of the employee or eligible family member. However, in no circumstances may FMLA leave be taken in increments of less than one full day, except for employees with chronic illnesses.

Spouses who are both employed by the district are entitled to a total of twelve (12) weeks of leave (rather than twelve weeks each) for the birth or adoption of a child or for the care of a sick parent.

An employee who is granted an approved leave of absence under this policy must continue to make any co-payment insurance premiums during the period of paid absence in order to maintain his/her group insurance.

In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence, the district may recover from the employee the cost of any district payments made to maintain the employee's health coverage, unless the failure to return to work was for reasons beyond the employee's control. Benefit entitlements based upon length of service will be calculated as the last paid work day prior to the start of the leave of absence.

**Right/Requirement to Substitute other Leave**

The FMLA leave shall commence as soon as the employee has proven his/her eligibility based on the qualifying event.

Employees who take FMLA leave for the birth or adoption of a child or for a serious health condition of a family member must use all accrued vacation days, personal days, emergency days and compensatory time as part of the 12-week period. Employees may use sick leave as part of the 12-week period for birth when the birth renders the employee unable to return to work.

Employees who take FMLA leave for their own serious health condition must use all accrued vacation days, personal days, emergency days, and sick days as part of their 12-week period. Leave taken for a serious health condition pursuant to a disability benefit plan or worker's compensation can be credited against an employee's FMLA leave entitlement (and of course accrued paid leave may not be substituted while such benefits are being received).

If an employee voluntarily accepts a light duty assignment in lieu of continuing FMLA leave, the employee's right to restoration to the original or an equivalent job continues until 12 weeks have passed, including FMLA leave and the period on the light-duty job.

**Benefits**

1. The employee on leave will suffer no loss of benefits accrued prior to date of leave, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions.
2. Health coverage will be maintained under any "group health plan" for the duration of the leave, at the level and under the conditions that such coverage would have been provided if the employee had continued working and had not taken leave; i.e., the employee must continue to make any co-payment required of active employees. The district can cancel benefits if the employee is more than 30 days late with any such payment or co-payment and provided that the district provides 15 day notice prior to dropping coverage. In that case, the employee will have health benefits reinstated upon return to work without qualification.
3. If the leave continues beyond the FMLA period of 12 weeks, pursuant to policy or practice, the employer paid health benefits coverage does not continue.
4. Seniority accrued prior to leave cannot be lost. Seniority will accrue for approved leaves of absence for professional employees, as mandated by the School Code.

Instructional Employees

Leave taken near the end of an Academic Term (or half year)

1. Leave Commencing Five or More Weeks Prior to End of the Semester: If the employee begins any category of family and medical leave five or more weeks prior to the end of the semester, and the period of leave is for more than three weeks, then the school district can require an employee seeking to return within the last three weeks to wait until the beginning of the next semester.
2. Leave Commencing Less Than Five Weeks Before the End of the Semester: If the employee begins any category of family and medical leave (except for serious health condition/disability of the employee) less than five weeks before the end of the semester, and the period of leave is greater than two weeks, then the school district can require an employee seeking to return within the last two weeks to wait until the beginning of the next semester.
3. Leave of Greater Than Five Working Days Commencing Three or Fewer Weeks Before the End of the Semester: If the employee begins any category of family and medical leave (except for serious health condition /disability of the employee) three or fewer weeks before the end of the semester, and the period of leave is greater than five working days, the school district may require the employee to wait until the beginning of the next semester.

In the situations described above, the entire period of leave taken counts as FMLA leave. However, if the Annual FMLA leave entitlement of an employee who is required to take leave until the end of an academic term ends before the leave is completed, the district will still maintain health benefits, reinstate the employee and provide other FMLA entitlements when the leave ends.

**Procedure:**

Any employee requesting a leave under this policy must complete the attached request for Family and Medical Leave Absence Form (including medical certification) and submit it to the superintendent. The district's health care provider may contact the employee's health care provider for clarification of information contained in a medical certification, but may not request additional information.

The form should be submitted thirty (30) days in advance of the effective date of the leave, when the leave is foreseeable.

It remains the district's responsibility to designate leave in writing as FMLA leave and to notify the employee. The designation of the leave as FMLA leave will be made when the district learns the reason for the leave. The district is permitted to designate FMLA leave after the leave

ends if:

1. The district has preliminarily designated the leave, but was awaiting medical certification, or
2. The district did not know the reason for the leave at the time the leave was taken (but makes a designation within two working days after the employee's return to work).

Employees may not retroactively claim that paid or unpaid leave was for an FMLA purpose.