

Board of Trustees Douglas County School District

PERSONNEL

UNPAID FAMILY AND MEDICAL LEAVE

Eligibility for Leave

Any employee who has completed at least 12 months of service with the Douglas County School District and has worked at least 1,250 hours during that 12-month period immediately preceding the need for the leave is eligible to request an unpaid family and medical leave of absence (FMLA). Subject to the conditions of this policy, eligible employees may request up to 12 weeks (or 60 work days) of family and medical leave during a 12-month period. A 12-month rolling period will be used starting from the last day of FMLA leave taken until one year from the last day of the previous FMLA leave taken. Employees of the District who are married have a combined total of 60 days FMLA leave in a 12-month period if the leave is taken for the birth of a child, or to care for an adopted or foster child. This limitation does not apply if the purpose of the leave is for the employee's own serious health condition or caring for the employee's spouse or child with a serious health condition.

Permissible Purposes of Family and Medical Leaves

An eligible employee may request a family and medical leave for any of the following reasons:

1. the birth of the employee's child and in order to care for the newborn child;
2. the placement of a child with the employee in connection with an adoption or foster care;
3. to care for a child, parent, or spouse who has a serious health condition; or
4. Due to a serious health condition that prevents the employee from performing the essential functions of his position with or without reasonable accommodations. It is the District's responsibility to designate leave, paid or unpaid, as FMLA-qualifying based on information provided by the employee at the time the employee requests or gives notice of the leave, or when the District determines that the leave qualifies as FMLA leave. Any leave of absence, paid or unpaid, that is granted to an employee under this policy or any other policy for a purpose specified above shall be credited against the 12-week (60 work-day) limit contained in this policy.
5. Exigency Leave:
 - Short-term notice deployment (deployment in seven or less calendar days)
 - Military events and activities
 - Childcare and school activities
 - Family support or assistance programs
 - Financial and legal arrangements
 - Counseling
 - Servicemember's rest and recuperation leave (limited to 15 calendar days for each instance).
 - Post-deployment activities

- Parental leave for the spouse, son, daughter, or parent of a military member to care for the military member's parent who is incapable of self-care.
 - Additional activities arising out of active duty that the District and employee agree upon
6. A serious health condition and continuing treatment are defined in Federal Regulations, Section 825.114 of the FMLA Act of 1993 handbook. Serious health condition includes an illness, injury, impairment, or physical or mental condition that includes any period of incapacity or treatment in connection with, or consequent to, inpatient care, a period of incapacity requiring absence from work for at least 3 days that involves continuing treatment by a health care provider or continued treatment for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than 3 days and any period of incapacity due to pregnancy or for prenatal care. FMLA is not available for routine examinations and/or conditions that can be initiated without a doctor or for which there is not a regimen of treatment.

Special rules apply when FMLA is requested the last 3-5 weeks before a semester ends. (825.602)

Workday defined herein shall mean any day for which the employee would have been paid or contracted to work had the employee not been granted unpaid family and medical leave.

Benefits During Leave

An employee who is granted a family and medical leave must utilize any accrued vacation and other applicable time off.

Sick leave may be used while on FMLA leave only if the circumstances of the leave meet the usual requirements for the use of sick leave under District Policy and/or an applicable negotiated agreement. Sick leave cannot be used for child rearing.

Compensatory time off may, but is not required to, be used for an FMLA reason. If compensatory time off is used for an FMLA reason, such time will not be counted against an employee's FMLA leave requirement.

Any portion of an FMLA leave that occurs after applicable paid leave has been exhausted shall be without pay. For purposes of this Policy's 12-week (or 60 work-day) limitation, any paid and unpaid portions of FMLA leave shall be added together regardless of whether they are taken consecutively.

Health insurance benefits ordinarily provided by the Douglas County School District, and for which the employee is otherwise eligible, will be continued during the period of the leave. The Douglas County School District will continue to pay its share of the premiums for the period of the leave, up to a maximum of 12 weeks. The cost of the dependent coverage normally borne by the employee will remain the sole responsibility of the employee. The employee must pay his share of the premiums for dependent coverage by making timely payments to the Douglas County School District, in care of the Payroll Office, the employee should decide with the Payroll Office to pay the cost of such dependent coverage.

Military Caregiver Leave

An eligible employee may be granted a total of 26 weeks of unpaid FMLA leave (which can run concurrently with paid leave) during a 12-month period to provide caregiver leave for a seriously ill or injured covered servicemember or veteran who is the employee's spouse*, son, daughter, parent (including in loco parentis**), or next of kin. The covered servicemember must be a member

of the Armed Forces (including National Guard or Reserves) who suffered or aggravated a serious injury or illness while in the line of duty, on active duty, that rendered the person medically unfit to perform assigned duties; or in the case of a veteran, the illness or injury manifests itself before or after the individual became a veteran.

A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the servicemember's office, grade, rank, or rating; or o A physical or mental condition for which the covered veteran has received a VA Service-Related Disability rating (VASRD) of 50% or greater and such VASRD rating is based, in whole or part, on the condition precipitating the need for caregiver leave; or o A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or o An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

*The definition of "spouse" was revised in 2015 to be inclusive of individuals in a same-sex marriage or common-law marriage entered into in a state where those statuses are legally recognized, regardless of the state in which the employee works or resides.

**In loco parentis is a relationship in which a person has assumed the obligations of a parent to a child, with whom the person has no legal or biological connection, including day-to-day responsibilities to care for or financially support a child.

A covered servicemember under the Military Caregiver Leave is defined as:

- A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious illness or injury that:
 - Was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces, or
 - May render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; or
- A covered veteran, who was a member of the Armed Forces including National Guard or Reserves (discharged or released under conditions other than dishonorable during the five-year period prior to the first date the eligible employee takes FMLA leave), who is undergoing medical treatment, recuperation, or therapy, for a serious illness or injury that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested before or after the member became a veteran, and is:
 - A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the servicemember's office, grade, rank, or rating; or
 - A physical or mental condition for which the covered veteran has received a VA Service-Related Disability rating (VASRD) of 50% or greater and such VASRD rating

is based, in whole or part, on the condition precipitating the need for caregiver leave; or

- A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or
- An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

Intermittent Leave Rules

The FMLA permits employees to take leave on an intermittent basis or on a "reduced leave schedule" when medically necessary due to the employee's own serious health condition, to care for a family member's serious health condition or use of the military leave entitlements. While not required by FMLA, with employer approval, intermittent leave may be granted to care for a newborn or a newly placed adopted or foster child.

Notification Rules

An employee must provide proper notification as a condition of eligibility for this leave. The employee must notify the Personnel Office of the need for such a leave, the date it will commence, and the anticipated duration of the leave. The employee must provide 30 days' notice where practicable, or as much notice as is practicable under the circumstances before an employee begins FMLA leave. A failure to comply with these notice rules may result in denial or postponement of the requested leave. However, if the need for family and medical leave results from an emergency or is otherwise unforeseeable, the leave will not be denied simply because an employee fails to provide advance notice. A decision concerning an FMLA request will be made within two business days of the request. The employee may be required to complete a medical certification form and return it to the District as soon as is reasonably practicable but not later than 15 days from receipt. The employee must inform the District at least two working days in advance of his/her intent to return to work.

Certification by Health Care Provider

If an employee requests a leave due to a serious health condition of the employee or a family member, the employee must support the request with a certification issued by the health care provider of the individual with the serious health condition. The certification should include the following information: (1) the date, if known, on which the serious health condition commenced; (2) the probable duration of the condition; (3) an estimate of the amount of time that the health care provider believes that the employee needs to care for the individual requiring the care; and (4) a statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

The District will provide a form to the employee for the purpose of certification. If medical certification is not provided within fifteen calendar days after a request has been made by the District, FMLA leave will not be granted. If for some reason it is not practicable for an employee to provide the required certification within fifteen calendar days, the employee must provide the certification within a reasonable time under the particular circumstances. Otherwise, the district will delay the employee's continuation of FMLA leave. If the employee does not produce the certification, FMLA leave will not be granted. If the District has reason to doubt the validity of the medical certification, the employee may be required to get a second opinion by a physician chosen

by the District and paid for by the District. If the opinions of the employee's and the District's designated health care providers differ, the District may require the employee to obtain certification from a third health care provider, again at the District's expense.

The third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the District and the employee. When FMLA is taken to care for a sick family member or for the employee's own serious health condition, leave may be taken intermittently, or on a reduced leave schedule, when medically necessary. Employees needing intermittent leave, or leave on a reduced leave schedule, must attempt to schedule their leave so as not to disrupt the District's operations. If an employee requests intermittent leave for planned medical treatment, the certification should specify the dates on which such treatment is expected to be given and the duration of such treatment. The District reserves the right, but does not have the duty, to assign an employee to an alternative position with equivalent pay and benefits which better accommodates the employee's intermittent or reduced leave schedule. If the time estimated by the health care provider under (3) above expires, the employee must submit a recertification if the employee desires additional leave. In addition, extensions will not be granted that cause the total period of the leave to exceed the 12-week (or 60 work-day) limitation identified above.

Reemployment Privileges

An employee who complies with the provisions of this policy will be guaranteed reemployment upon expiration of an approved leave, provided that the total period of the leave does not exceed 12 weeks (or 60 work days). The employee will be reemployed in the same or an equivalent position as that which he occupied when the leave commenced. An employee who takes a leave because of his own serious health condition must provide a medical certification verifying that he is able to return to work in the same manner as employees who return from other types of medical leave.

If an employee fails to return for work immediately after the period of the approved leave expires, the employee will be considered to have voluntarily separated from the Douglas County School District's employ. Should an employee fail to return, the District will do whatever is necessary to recover that portion of the employee's health and accident insurance premium cost that the District paid during the approved leave.

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