

PERSONNEL

Family and Medical Leave

This Regulation is intended to be consistent with the Family and Medical Leave Act (FMLA) of 1993, as amended. In the event of any inconsistency between this Regulation and the FMLA, the FMLA will govern. Should there be conflicting provisions in other School Division regulations regarding FMLA leave, this Regulation shall take precedence. This Regulation will also run concurrently with all other applicable School Division leave regulations, unless stipulated otherwise.

A. Eligible Employees

An employee who has worked for the School Board for: 1) at least twelve (12) months; and 2) has at least 1,250 hours of service during the 12 month period immediately preceding the leave is eligible to apply for the leave provided herein.

B. Definitions

The following definitions shall apply for purposes of this Regulation:

1. The term "parent" means the biological, adoptive, step, or foster parent of an employee or any other individual who stood in loco parentis to ~~an~~ the employee when the employee was a minor child. This term does not include parents "in law."
2. The term "son or daughter" means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: i) under 18 years of age; or ii) 18 years of age or older and incapable of self-care because of mental or physical disability at the time that FMLA leave is to commence. "Incapable of ~~self-care~~self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the activities of daily living or instrumental activities of daily living.
3. The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - a. any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility; or
 - b. any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also

involves continuing treatment by a health care provider; or continuing treatment by a health care provider 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 three calendar days; or for prenatal care.

4. The term "continuing treatment by a health care provider" means one or more of the following:
 - a. the employee or family member is treated two or more times for the injury or illness by a health care provider or by a provider of health care services under orders of, or referral by, a health care provider, or the employee or family member is treated by a health care provider on at least one occasion which results in a regimen of continuing treatment with the supervision of the health care provider.
 - b. the employee or family member is under the continuing supervision of a health care provider due to a serious long-term or chronic condition or disability which cannot be cured.

Voluntary or cosmetic treatments which are not medically necessary are not serious health conditions, unless inpatient hospital care is required or unless complications develop.

5. The term "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
6. The term "instructional employees" means an employee whose principal function is to teach and instruct students in a class, a small group, or an individual setting and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

C. Leave

1. Leave generally

Except as hereinafter provided, an eligible employee shall be entitled to a total of twelve (12) workweeks of paid or unpaid leave during a twelve (12) month period. The twelve (12) month period will begin on the first day an employee uses Family and Medical Leave pursuant to this Policy and will end three hundred sixty-four (364) days later

- a. because of the birth of a son or daughter of the employee and in order to care for such son or daughter;

- b. because of the placement of a son or daughter with the employee for adoption or foster care;
- c. because the employee is needed to care for his/her spouse, son, daughter or parent, if such spouse, son, daughter, or parent has a serious health condition; or
- d. because of a serious health condition that makes the employee unable to perform the functions of his or her position.
- e. The entitlement to leave for a birth or placement of a son or daughter shall expire twelve (12) months after such birth or placement.
- f. Spouses who are both employed by the School Board may only take a combined total of twelve (12) weeks of leave during the school year for the birth or placement of a child or to care for a parent (but not a parent-in-law) with a serious health condition.

2. Leave for qualifying exigency and military caregiver

- a. Eligible employees may take up to twelve (12) weeks of unpaid, job protected leave in a 12-month period to deal with qualifying exigencies arising from the foreign deployment of the employee's spouse, son, daughter, or parent on covered active duty or has been notified of an impending call or order to covered active duty. The twelve weeks taken under this subsection are counted toward the twelve weeks of FMLA leave used for any other reason.
- b. Qualifying exigencies for the purposes of this section are:
 - 1. ~~1)~~ Short-notice deployment. The employee may take up to seven calendar days of leave to address issues arising from a family member's call to duty within seven days or fewer of deployment;
 - 2. ~~2)~~ Military events and related activities - The employee may take leave to attend military programs, ceremonies, and events, to attend family support and assistance programs, and so on;
 - 3. ~~3)~~ Child-care~~Childcare~~ and school activities - The employee may take time off to arrange alternative ~~child-care~~childcare, enroll a child in a new school, and deal with other logistics relating to the family member's imminent departure;
 - 4. ~~4)~~ Financial and legal arrangements - The employee may take time off to help make or update a will, power of attorney, or bank account transfer, for example;

5. ~~5)~~ Counseling - The employee may take leave to attend counseling, including for a family member or family member's child;
 6. ~~6)~~ Rest and recuperation - The employee may take up to five days of leave to spend with a family member who is on short-term, temporary R&R leave during deployment;
 7. ~~7)~~ Post-deployment activities - The employee may take time off to attend briefings, ceremonies, and events relating to a family member's return from service, or to address issues arising from the death of a family member on active duty;
 8. ~~8)~~ Certain activities related to care of the military member's parent who is incapable of self-care – The employee may take time off to arrange alternative care; provide care on a non-routine, urgent immediate need basis, admit or transfer a parent to a new care facility, and attend meeting with staff at a care facility or social service provider;
- c. Eligible employees may take up to twenty-six (26) weeks of unpaid, job-protected leave during a single 12-month period to care for a covered service member family member who incurred a serious injury or illness in the line of duty while on active duty. "Seriously injured" means that the illness or injury is related to active duty service and has rendered the family member medically unfit to perform the duties of ~~his~~ their office. The twenty-six (26) weeks taken under this subsection are counted toward the twelve weeks of FMLA leave used for any other reason.
 - d. Entitlement to use FMLA for a military caregiver is limited to only once per family member, per serious injury or illness incurred while in the line of duty on active duty. Family members for the purposes of this subsection are defined as spouses, children, parents or next of kin (service member's nearest blood relative).

3. Leave taken intermittently or on a reduced schedule

- a. Leave for the birth or placement of a child shall not be taken by an employee intermittently or on a reduced leave schedule without the written authorization of the Chief Human Resources Officer or designee.
- b. Leave for the serious health condition of an employee or an employee's spouse, parent or child may be taken intermittently or on a reduced leave schedule when medically necessary. If such leave is foreseeable based on

planned medical treatment, the Division Superintendent may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and, in the Division Superintendent's opinion, better accommodates recurring periods of leave than the regular employment position of the employee.

- c. Employees may not take leave in less than one (1) hour increments.

4. Substitution of Paid Leave

An employee must substitute any accrued paid annual, personal reasons, or sick leave for unpaid leave taken pursuant to this regulation.

- 5. An employee who is on Family Medical Leave may not engage in employment for any other employer or be self-employed while on leave.

D. Foreseeable Leave

1. Notice

In any case in which the necessity for leave is foreseeable based on an expected birth or placement, or planned medical treatment, the employee shall request such leave not less than 30 days before the date leave is to begin, except that if the date of the birth or placement, or medical treatment, requires leave to begin in less than thirty (30) calendar days, the employee shall provide as much notice as is practicable.

2. Duties of Employee

In any case in which the necessity for leave for the serious health condition of an employee or of an employee's spouse, parent or child is foreseeable, based on planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the School Division.

3. Requests for Leave

Requests for leave shall be made on forms provided by the Office of Employee Relations in the Department of Human Resources.

E. Certification and Other Opinions

- 1. An employee requesting leave ~~on account of~~ due to a serious health condition must submit a medical certification on the form provided by the Office of Employee Relations.

2. In any case in which the Chief Human Resources Officer has reason to doubt the validity of the certification for leave, ~~he/she/they~~ may require, at the School Board's expense, that the employee obtain a second opinion of a health care provider designated or approved by the Chief Human Resources Officer or designee concerning any information in the certification.
3. If the second opinion differs from the original certification, the Chief Human Resources Officer may require, at the School Board's expense, that the employee obtain a third opinion of a provider jointly approved by the employee and the Chief Human Resources Officer. The third opinion shall be final and binding.
4. The Chief Human Resources Officer or designee may require an employee to obtain subsequent certifications on a reasonable basis no more frequently than thirty (30) calendar days.
5. The failure of an employee to provide the required medical certification will terminate the employee's right to leave and nullify any leave already taken by the employee.

F. Employee and Benefits Protection

1. An employee who takes leave under this Regulation shall, upon return from said leave, be restored to the position ~~he or she/they~~ left or to an equivalent position.
2. An employee taking leave under this Regulation shall not lose any benefits accrued prior to taking leave.
3. An employee who takes leave for ~~his/her/their~~ own serious health condition shall provide the Office of Employee Relations with a certification from the health care provider, on the prescribed form, that the employee is able to resume work.
4. The Chief Human Resources Officer or designee may require employees on leave under this Regulation to report periodically on the status and intention of the employee to return to work.
5. The School Board may recover any premiums that it paid for maintaining benefit coverages for an employee during the period of unpaid leave if the employee does not return to work after the expiration of the leave, unless the employee does not return because of circumstances that are beyond the employee's control, including a FMLA qualifying medical condition. The Chief Human Resources Officer or designee may require the employee to provide a certification from a health care provider. If the employee fails to provide the requested certification within thirty (30) calendar days of the request, the employee will be obligated to repay all health benefit premiums paid by the School Board.

G. Additional Rules for Instructional Employees

1. In addition to the requirements set forth above, an eligible employee employed principally in an instructional capacity shall comply with the requirements specified in this section.

Such employee who requests leave that is foreseeable based on planned medical treatment and that would last more than twenty (20) percent of the working days in the following twelve (12) month period must elect either:

- a. to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
 - b. to transfer temporarily to an alternative position, if available and offered by the Division, for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the regular position.
2. If the employee begins leave more than five (5) weeks prior to the end of the semester, the School Division may require the employee to continue taking leave until the end of the semester if:
 - a. the leave is of at least three (3) weeks duration; and
 - b. the return to work would occur during the three (3)-week period before the end of the semester.
 3. If the employee begins leave for other than his/her/their own serious health condition during the period that commences five (5) weeks prior to the end of the semester, the School Division may require the employee to continue taking leave until the end of the semester if:
 - a. the leave is of greater than two (2) weeks duration; and
 - b. the return to work would occur during the two (2)-week period before the end of the semester.
 4. If an employee begins leave for other than his/her/their own serious health condition during the period that commences three (3) weeks prior to the end of the semester and the duration of leave is greater than five (5) working days, the School Division may require the employee to continue to take leave until the end of the semester.

Legal Reference

Family Medical Leave Act, 29 U.S.C. § 2602, *et seq.*, as amended.

Approved by Superintendent: January 18, 1994

Revised by Superintendent: February 4, 1998 (Retroactive to July 1, 1997)

Revised by Superintendent: October 8, 1998

Revised by Superintendent: March 8, 2006

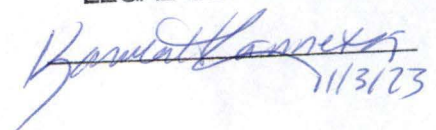
Revised by Superintendent: February 10, 2014

Revised by Superintendent: December 11, 2017

Revised by Superintendent:



APPROVED AS TO
LEGAL SUFFICIENCY


11/3/23