

Superintendent File: GBGF

Family and Medical Leave

This policy shall apply to all family and medical leaves of absence covered under the Family and Medical Leave Act (“FMLA”). Terms used in this policy and its accompanying regulation, such as “serious health condition,” “qualifying exigency,” “covered active duty,” “covered servicemember,” and “serious injury or illness” shall be as defined by the FMLA and its implementing regulations.

Eligibility

To be eligible for a family and medical leave of absence (FMLA leave) under this policy, an employee shall have been employed for at least 12 months and shall have worked at least 1,250 hours during the 12-month period preceding the commencement of the leave. A full-time classroom teacher shall be deemed to meet the hourly requirement but must also meet the 12-month requirement to be eligible for FMLA leave.

Permitted reasons for FMLA leave

An eligible employee shall be entitled to a combined total of 12 weeks’ leave per year for the following reasons:

1. The birth and care of the employee’s newborn child;
2. The placement of a child with the employee for adoption or foster care;
3. To care for the employee’s spouse, parent, child, domestic partner or partner in a civil union with a serious health condition;
4. When the employee is unable to perform the essential functions of his or her position because of the employee’s own serious health condition; or
5. Any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter or parent is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty in the Armed Forces.

Entitlement for child care leave shall end after the child reaches age one or 12 months after adoption or foster placement. Leave to care for a child shall include leave for a step-parent or person *in loco parentis*.

Spouses working for the District

Eligible spouses who work for the District are limited to a combined total of 12 workweeks of leave in a 12-month period to share for the following FMLA-qualifying reasons:

- The birth and care of the employee’s newborn child;

- The placement of a child with the employee for adoption or foster care; and
- The care of a parent with a serious health condition.

Military caregiver leave

An eligible employee who is a spouse, son, daughter, parent or next of kin of a covered servicemember with a serious injury or illness incurred or aggravated in the line of duty on active duty shall be entitled to a total of 26 weeks of leave during a single 12-month period to care for the covered servicemember.

The single 12-month period shall begin on the first day the employee takes leave for this reason and shall end 12 months later. During that 12-month period, the eligible employee is entitled to a combined total of 26 weeks of leave under this policy. Only 12 weeks of the 26 week total may be for a FMLA-qualifying reason other than to care for a covered servicemember.

Eligible spouses who work for the District are also limited to a combined total of 26 workweeks of leave in a single 12-month period to care for a covered servicemember with a serious injury or illness if each spouse is a parent, spouse, son or daughter, or next of kin of the servicemember. When spouses take military caregiver leave as well as other FMLA leave in the same leave year, each spouse is subject to the combined limitations for the reasons for leave listed above.

Temporary paid FMLA leave

The Families First Coronavirus Response Act requires that the District provide its employees with paid family and medical leave (PFML) for specified reasons related to COVID-19. PFML will expire on December 31, 2020.

PFML can only be used where an employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.

PFML provides eligible employees a 12-week benefit which counts toward their usual 12 workweeks of FMLA leave for any other qualifying reason in the 12-month period the District uses to determine FMLA entitlement. The initial two weeks of PFML leave is unpaid. Employees may substitute other available leave or accrued paid personal time for this unpaid period. For each day an employee uses PFML leave after the initial two week period, the District must pay eligible employees two-thirds of their average regular rate of pay for each hour an employee is scheduled to work that day, subject to the maximum of \$200 per day and \$10,000 in the aggregate for the additional 10 week period.

Intermittent or reduced FMLA leave

Leave may be taken on an intermittent or reduced leave schedule under certain circumstances

consistent with law. The District may require the employee to 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. Teachers requesting intermittent or reduced leave involving greater than 20 percent of their working time during such period may, in the alternative, be required to take leave continuously for all or a specified part of the total period involved.

Intermittent leave or leave on a reduced schedule shall not be allowed because of the birth of an employee's child and to care for a newborn child, or because of the placement of a child with an employee for adoption or foster care.

Limitations on FMLA leave near the end of an academic term

Under certain circumstances and consistent with federal law, teachers may be required to take leave until the end of an academic term. In the case of a teacher who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement.

Health insurance and benefits

The District shall maintain coverage under any group health insurance plan for any employee who is granted an approved leave of absence under this policy for the duration of the leave. Such coverage shall be maintained at the same level and under the same conditions as coverage would have been provided if the employee were not on leave. The District reserves the right to seek reimbursement for this benefit in the event that an employee elects not to return to work, as allowed by law.

The use of FMLA leave shall not result in the loss of any employment benefit that accrued prior to the start of the FMLA leave.

Reinstatement after FMLA leave

Employees returning from FMLA leave will be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees are not guaranteed the actual job they were previously assigned to prior to taking leave. An employee on FMLA leave is not protected from actions that would have affected him or her if the employee was not on FMLA leave.

If the employee on leave is a salaried employee and is among the highest paid 10 percent of District employees and keeping the job open for the employee would result in substantial economic injury to the District, the employee may be denied reinstatement provided the District notifies the employee of its intent to deny reinstatement at the time economic hardship occurs and the employee elects not to return to work after receiving the notice.

Development of procedures

The superintendent or his/her designee shall cause the development of procedures to require appropriate medical certifications, notification and reporting which are consistent with law.

Compliance with governing law

The District shall fully comply with the FMLA and shall be entitled to take all actions and exercise all options authorized under the FMLA. In the event that this policy conflicts or is otherwise inconsistent with mandatory provisions of the FMLA, the mandatory provisions of the FMLA shall control.

Adopted by the Superintendent: December 8, 2020

LEGAL REFS.:

29 U.S.C. 2601 *et seq.*

29 C.F.R. Part 825

29 C.F.R. Part 826

C.R.S. 8-13.3-201 *et seq.*