

All eligible employees of this district may take leave as provided by the Family and Medical Leave Act (FMLA). The FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave during a twelve-month (12-month) period for specified family and medical reasons.

## **DEFINITIONS**

“Child” includes biological, adopted, or foster child, stepchild, legal ward, or a child of a person standing in loco parentis (in place of parent). The child must be either under 18 years of age or, if over 18, incapable of self-care because of a mental or physical disability, or be a covered servicemember.

“Continued treatment” includes:

1. Any consecutive three (3)-day period of incapacity that involves: (a) at least two (2) visits to a health care provider, or (b) a regimen of continued treatment under a health care provider’s supervision;
2. Any period of incapacity due to pregnancy (including severe morning sickness), even if no treatment is obtained for prenatal care;
3. Any period of incapacity due to a chronic medical condition, such as asthma, diabetes, or epilepsy, even if no treatment is obtained;
4. Any period of absence to receive multiple treatments for restorative surgery or a serious illness such as cancer, severe arthritis, or kidney disease; or
5. Any permanent or long-term incapacity (e.g., Alzheimer’s or severe stroke), even if no treatment is being provided.

“Covered active duty” means:

1. For members of the regular Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or
2. For members of the reserve components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

“Covered servicemember” means either:

1. 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 injury or illness.

2. A veteran of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered servicemember.

“In loco parentis” means a person who provides day-to-day care or financial support for a child. Employees with no biological or legal relationship to a child can stand in loco parentis to that child, and are entitled to FMLA leave; e.g., an uncle who cares for his sister’s children while she serves on active military duty.

“Next of kin” is the nearest blood relative, other than the current servicemember’s spouse, parent, son, or daughter, in the following order of priority: (1) a blood relative who has been designated in writing by the servicemember as the next of kin for FMLA purposes, (2) a blood relative who has been granted legal custody of the servicemember, (3) brothers and sisters, (4) grandparents, (5) aunts and uncles, and (6) first cousins.

“Parent” includes a biological parent (not parent-in-law) or someone who stood in loco parentis when the employee was a child.

“Spouse” is a husband or wife, including a common-law or same-sex husband or wife, but does not include a “significant other” or “domestic partner.”

“Serious health condition” is a condition that involves either an overnight stay in a medical care facility or “continued treatment” by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job.

“Teacher (or instructional employee)”, for the purposes of this policy, means an employee employed principally in an instructional capacity by the district whose primary 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 actually teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.

**ELIGIBLE EMPLOYEE**

An eligible employee is defined as an individual who:

1. Has been employed by the district for at least twelve (12) months (need not be consecutive months of employment); and
2. Has been employed for at least one thousand two hundred fifty (1,250) hours of service

during the twelve-month (12-month) period immediately preceding the commencement of the leave\*; and

3. Is employed at a worksite where fifty (50) or more employees are employed by the district within seventy-five (75) miles of the worksite.

\*Full-time teachers are presumed to be eligible for FMLA leave, unless the district can clearly demonstrate that the teacher did not work 1,250 hours during the previous twelve (12) months.

**The district must choose one of the following options to determine the calculation of the 12-week period of leave within a 12-month period:**

For the purpose of determining continuing eligibility for FMLA, this district will calculate the “twelve-month (12-month) period immediately preceding the commencement of the leave” as the 12-month period measured forward from the date an employee first takes FMLA leave.

**LEAVE ENTITLEMENT**

Eligible employees are entitled to up to twelve (12) workweeks of unpaid, job-protected leave in a twelve-month (12-month) period for one (1) or more of the following reasons:

1. The birth of a child and to care for the newborn child within one (1) year of birth\*;
2. The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one (1) year of placement;
3. To provide care for the employee’s spouse, child, or parent, who has a serious health condition; or
4. For a serious health condition that makes the employee unable to perform the employee’s job.
5. For any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military member on covered active duty or has been notified of an impending call or order to covered active duty.

**MILITARY CAREGIVER LEAVE**

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to a total of twenty-six (26) workweeks of leave during a twelve-month (12-month) period to care for the servicemember who is recovering from a serious illness or injury sustained in or aggravated by service in the line of duty while on active duty in the Armed Forces.

The servicemember must either be currently in the Armed Forces and unable to perform regular duties, or was in the Armed Forces and was discharged under other than dishonorable conditions within five (5) years of receiving the medical treatment, recuperation or therapy prompting the employee's leave request. Such leave shall only be available during a single twelve-month (12-month) period.

During the single twelve-month (12-month) period, an eligible employee shall be entitled to a combined total of twenty-six (26) workweeks of leave, including the twelve (12) weeks for a “qualified exigency.” However, there is no limitation on the availability of leave during any other twelve-month (12-month) period. If the district employs both spouses to whom this section applies, the husband and wife are limited to a total of twenty-six (26) workweeks during the twelve-month (12-month) period for all types of FMLA leave.

**NOTICE**

The district will post a notice approved by the U.S. Secretary of Labor explaining the rights and responsibilities under the FMLA at the district offices and all district schools. In addition, a general notice of rights and responsibilities will be distributed to each new employee upon hiring or will be included in employee handbooks or other written guidance concerning benefits or leave rights. No notification of rights under the FMLA or related regulations should be construed to alter any applicable at-will employment relationship between the district and an employee.



**LEGAL REFERENCE:**

Idaho Code Sections

33-1216 – Sick and Other Leave

29 U.S.C. §§2601 et seq. – Family and Medical Leave Act of 1993

29 CFR Part 825 – Regulations Implementing the FMLA

**ADOPTED: April 12, 2004**

**AMENDED: November 10, 2008**

**AMENDED: March 9, 2015**

**AMENDED: September 10, 2018**

**AMENDED: May 13, 2024**

**ATTACHMENTS:**

Employee Rights and Responsibilities under the Family and Medical Leave Act