

Book	Policy Manual
Section	500 Classified Employees
Title	Family and Medical Leaves
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### **Purpose**

~~The purpose of this policy is to define the District's policy and procedures with regard to family and medical leave.~~

~~[1][2]~~

~~The Board shall provide eligible classified employees with unpaid leaves of absence in accordance with the Family And Medical Leave Act, hereinafter referred to as FMLA.[1][2]~~

~~Employee requests for FMLA leave shall be processed in accordance with law, Board policy and administrative regulations.~~

### **Authority**

This policy shall be applicable to employees who have been employed by the District for at least twelve (12) months and who have had at least 1,250 hours of service with the District during the previous twelve-month period.

If leave is requested for an employee's own serious health condition, the employee must use all of his/her accrued sick leave. If leave is requested for any of the other reasons listed below, an employee must use all of his/her accrued vacation or personal/emergency leave. The remainder of the leave period will then consist of unpaid leave.[3]

### **Definitions**

For purposes of this policy, **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 either a biological, foster or adoptive parent; a stepparent; or a legal guardian. **Parent** does not include a parent-in-law or grandparent.

**Serious health condition** means an illness; injury; impairment; or physical or mental condition of a child, parent or spouse which warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse and also involves

either an inpatient facility or continuing treatment or continuing supervision by a health care provider.

A **health care provider** is defined as a doctor of medicine; doctor of osteopathy; podiatrist; dentist; clinical psychologist; optometrist; chiropractor; nurse practitioner; nurse midwife; clinical social worker; and any health care provider recognized by the employer or the employee's group health plan benefits manager as authorized to provide certification of a serious health condition for claims, and health care providers in countries outside the United States.

### **Delegation of Responsibility**

The Superintendent shall develop and disseminate administrative regulations to implement FMLA leave for eligible employees.

The district shall post, in conspicuous places in the district customarily used for notices to employees and applicants, a notice regarding the provisions of the FMLA and the procedure for filing a complaint.[3]

Employee requests for leave, both FMLA and non-FMLA, shall be submitted in writing on a district form to the Director of Human Resources.

### **Guidelines**

Employees' eligibility for FMLA leave shall be based on the criteria established by law.[4][5]

Eligible employees shall be provided up to twelve (12) workweeks of unpaid leave in a twelve-month period for the employee's own serious health condition; for the birth, adoption, foster placement or first-year care of a child; to care for a seriously ill spouse, child or parent; or to address specific qualifying exigencies pertaining to a member of the Armed Forces alerted for foreign deployment or during foreign deployment.[5]

Eligible employees shall be provided up to twenty-six (26) work weeks of unpaid leave in a single twelve-month period to care for an ill or injured covered servicemember.[5]

The district shall utilize a rolling twelve-month period measured backwards from the date leave is used to determine if an employee has exhausted his/her FMLA leave in any twelve-month period. [6]

### **Reasons for Leave**

~~All employees who meet the applicable time of service requirements may be granted family or medical leave consisting of appropriate accrued paid leave and unpaid leave for a period of twelve (12) weeks (during any twelve-month period) for the following reasons:~~

- ~~1. The birth of the employee's child and in order to care for the child.~~
- ~~2. The placement of a child with the employee for adoption or foster care.~~

- ~~3. To care for a spouse, child or parent who has a serious health condition.~~
- ~~4. A serious health condition that renders the employee incapable of performing the functions of his/her job.~~
- ~~5. Qualifying exigency, as defined in Department of Labor regulations, arising from the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.~~
- ~~6. Care of a spouse, child, parent or next of kin who is a covered servicemember 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.~~

~~The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.~~

Where an employee is eligible for leave pursuant to any health condition that renders the employee incapable of performing the functions of his/her job, including that period of disability involved in childbirth, the employee, in accordance with this policy, must first utilize his/her paid sick leave for said period of disability. This paid leave will count toward the employee's twelve-week FMLA entitlement.

Where an employee utilizes sick leave for an FMLA qualifying purpose and the use of sick leave exceeds three (3) days, the District may retroactively designate the remaining paid leave used as part of the employee's twelve-week FMLA entitlement once it becomes aware of such qualification even if the paid leave was not originally designated as FMLA leave.

### Basic Conditions of Leave

1. The District will require medical certification from the health care provider to support a request for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, or parent. [\[4\]](#)[\[5\]](#)

For the employee's personal medical leave, the certification must state that the employee is unable to perform the functions of his/her position because of a serious health condition. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the necessity for the employee's leave.

2. For leave to care for a seriously ill child, spouse, or parent, the certification must state that the employee is needed to provide care and the amount of time the employee will be needed.

Pursuant to this policy, an employee requesting family and medical leave must submit a complete Certification Of Health Care Provider document. If this documentation is not submitted or if there are any questions that arise with regard to any of the information provided therein, the District reserves the right to require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the District, at its own expense, may require the opinion of a third health care provider. The school will deny leave until the required certification is supplied.

Notwithstanding the foregoing, the District will not require a second or third medical opinion when family and medical leave is requested by an employee to care for a spouse, child or parent who has a serious health condition provided that the employee submits a complete medical certification document indicating that the employee is needed to provide care for

his/her spouse, child or parent.

3. Employees may be required to provide recertification of medical conditions every thirty (30) days or more frequently at the discretion of the school, as allowed by the FMLA.

#### Active Duty/Call to Active Duty

An employee shall be eligible for leave because of a qualifying exigency due to the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call to active duty.

If the necessity for leave is foreseeable, the employee will provide notice as soon as practicable.

The District may require that a request for leave because of a qualified exigency be supported by a certification issued in accordance with regulations issued by the Secretary of Labor. The employee will provide the required certification in a timely manner.

#### Care of Covered Servicemember

An employee is eligible for leave up to twenty-six (26) weeks per year to care for a covered servicemember who is a member of the Armed Forces, including the National Guard and Reserves, and 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.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or District and will notify the District of his/her intention to take leave not less than thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

The District will require that a request for leave to care for a covered servicemember be supported by certification signed by a health care provider of the individual in need of care. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition, injury or illness began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.

An employee is eligible to take intermittent or reduced schedule leave for planned medical treatment. The required certification must contain the dates the treatment is expected to be given and the duration of such treatments.

Leave to care for an ill or injured covered servicemember, when combined with other qualifying leave under FMLA, will not exceed twenty-six (26) weeks in a single twelve-month period.

#### Reinstatement After Leave

An employee who takes FMLA leave because of the employee's own serious health condition must provide certification that s/he is able to resume work. The school will deny reinstatement until the requested certification is provided. [\[4\]](#)[\[6\]](#)

## Limitations on FMLA Leave

1. If medically necessary for a serious health condition of the employee or his/her spouse, child, parent or to care for a covered servicemember, leave may be taken on an intermittent or reduced leave schedule. If leave is required on this basis, however, the employee must meet with the administration to discuss the manner in which his/her need for intermittent leave will be accommodated so as to ensure that the educational program is not unduly disrupted.

When intermittent leave or leave on a reduced leave schedule is requested based on planned medical treatment, the school may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position. Alternatively, the school may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay and benefits, but not equivalent duties.

The employee may not take leave intermittently or on a reduced hours basis in connection with the birth, adoption or foster placement of a child.

2. When FMLA leave is needed to care for a family member or for the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to disrupt the employer's operation unduly.
3. If both spouses are employed by the District, each eligible employee will be entitled to twelve (12) weeks each of family and medical leave during any twelve-month period, or twenty-six (26) weeks in the event the leave is to be taken for a covered servicemember.
4. Leave for the birth or placement of a child must take place within twelve (12) months after the event. Leave may begin prior to birth or adoption as circumstances dictate.
5. The law has special scheduling rules for employees employed principally in an instructional capacity (i.e., teachers). If a teacher requests leave to care for a serious health condition of a family member or him/herself, and the leave is foreseeable based on planned medical treatment, and when the leave could constitute more than twenty percent (20%) of the total number of working days during the period which the leave would extend, the District may require the teacher to elect one (1) of the following choices:
  - a. Take leave for periods of a particular duration (i.e., not intermittently).
  - b. Transfer to an available alternative position with equivalent pay and benefits which better accommodates recurring periods of leave.
6. The school may require the instructional employee to continue his/her FMLA leave to the beginning of a grading period or term if:
  - a. The leave begins more than five (5) weeks before the term's end, will last at least three (3) weeks, and the employee would return to work within three (3) weeks of the end of the term or grading period.
  - b. The leave is for a purpose other than the employee's serious health condition, begins during the five-week period before semester's end, will last more than two (2) weeks, and the employee would return during the two-week period before the end of the term or grading period.

- c. The leave is for a purpose other than the employee's own serious health condition, begins during the three-week period before the end of a term or grading period, and will last more than five (5) days.

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 or grading period ends before the leave is completed, the school will still maintain health benefits, reinstate the employee, and provide other FMLA entitlement when the leave ends.

#### Status of Employee Benefits During Leave of Absence

1. Any employee who is granted an approved leave of absence under this policy may continue his/her group insurance coverage by arranging to pay his/her portion of the premium contributions during the period of unpaid absence.
2. Employees will be required to continue to pay their share of group health benefit costs during a period of leave under the law. In the event that an employee's payment is not made within thirty (30) days of the date on which it is due, the school's obligation to maintain health coverage will cease.
3. If any 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 premiums paid to maintain the employee's coverage unless the failure to return to work was a reason beyond the employee's control. Should leave be required for an employee beyond the twelve-week period, such benefits would be at the expense of the employee.
4. An employee on leave will not lose any employment benefits accrued prior to the leave unless a benefit is used by the employee during the leave, such as accrued sick leave or paid vacation.

#### Notification of Leave

1. When such leave is in connection with the birth, adoption or foster placement of a child and is foreseeable, the employee shall provide the District with at least thirty (30) days notice of the date when the leave is to begin. When leave is required for a family or employee illness which is foreseeable, the employee shall make a reasonable effort to schedule such treatment as not to disrupt unduly the operations of the District. Where foreseeable, the employee must provide the Board thirty (30) days notice unless circumstances dictate otherwise.
2. If an employee fails to provide thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least thirty (30) days from the date the employer receives notice.
3. A completed Request Application for Leave of Absence must be submitted to the ~~Assistant-Superintendent~~ **Human Resources Department**. Additionally, employees must provide periodic reports during FMLA leave regarding the status of the medical condition and their intent to return to work. An employee notice of intent not to return to work will cause an immediate termination of the employee's rights under this policy and the FMLA.
4. In addition to the application to request leave due to an employee's own serious health condition or leave for the care of a child, parent, or spouse with a serious health condition, the employee must provide the District with a medical certification statement from the health care provider who is treating his/her own serious health condition regarding the following information:

- a. The date on which the condition commenced.
  - b. The probable duration of the condition.
  - c. The appropriate medical facts regarding the condition.
  - d. A statement that the employee is unable to perform the functions of his/her position due to his/her condition.
5. To request intermittent leave or leave on a reduced leave schedule, the employee must provide the District with the following additional information from the health care provider:
- a. For leave for the employee, the employee must provide:
    - i. A statement of medical necessity for his/her intermittent leave or reduced leave schedule and the expected duration of the schedule.
    - ii. A listing of the dates of his/her planned medical treatment and the duration of the treatment(s).
  - b. For leave to care for a son, daughter, spouse, or parent, the employee must provide:
    - i. A statement attesting to the necessity of intermittent leave or reduced leave for the employee to provide care or to assist in the person's recovery.
    - ii. An estimate of the expected duration and schedule of his/her intermittent or reduced leave.

#### Return From Leave

1. Any eligible employee who takes a leave for a purpose intended by the law will be entitled upon return from such leave to be restored to the same position of employment as held when the leave began or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
2. A doctor's release may be required if the employee is returning from a medical leave of three (3) or more days.

#### Failure to Return From Leave

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination of employment in the District unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the continuation, recurrence or onset of his/her own serious health condition or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the ~~Assistant Superintendent~~. **Human Resources Department**.

The written request should be made as soon as the employee realizes that s/he will not be able to return at the expiration of the leave period.

{ } When an employee requests an FMLA leave and qualifies for and is entitled to any accrued paid sick, vacation, personal or family leave, the employee is required to utilize such paid leave

concurrent with the FMLA leave.[5]

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Legal

[1. 29 U.S.C. 2601 et seq](#)

[2. 29 CFR Part 825](#)

[3. 29 U.S.C. 2619](#)

[4. 29 U.S.C. 2612](#)

[5. 29 U.S.C. 2613](#)