

FAMILY AND MEDICAL LEAVE POLICY

Pursuant to the Family and Medical Leave Act of 1993 (FMLA), the School District will provide to eligible employees up to 12 weeks of **unpaid** leave (or up to 26 weeks for the care of a service member) for employees eligible for such leave. The following policy outlines the basic requirements for obtaining leave, the amount of leave that may be taken, and how the leave relates to other time off provided by the school district.

Eligibility

Employees who have worked for the school district for at least twelve months and who have worked at least 1,250 hours in the twelve months preceding the date that requested leave is to begin are eligible for family/medical leave.

Employees also must work within seventy-five miles of at least fifty other employees of the same school district to be eligible. Employees who do not satisfy these requirements are not eligible for family/medical leave, but may be eligible for other leave under other school district policies.

Employees may take family/medical leave in the following circumstances:

1. To care for a newborn child, so long as leave is completed by the child's first birthday;
2. Placement of a child for adoption or foster care, so long as the leave is completed by one year following initial placement;
3. To care for a spouse, child or parent of an employee who requires such care because of a serious health condition; or,
4. Because the employee has a serious health condition which renders him unable to perform his job.
5. Because of any qualifying exigency (as defined by the Department of Labor) arising from the fact an employee's spouse, child, parent is on covered active duty or has been notified of an impending call or order to active duty in the Armed Forces. A "qualifying exigency" includes: (a) short-notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; and (h) additional activities related to a family member's call to covered active duty where the employer and the School District may agree to the leave. The FMLA defines "covered active duty" for a member of a regular component of the Armed Forces to mean duty during the deployment of

that member to a foreign country. In the case of a member of a reserve component of the Armed Forces, “covered active duty” means duty during the deployment of that member to a foreign country or an order to active duty.

6. Subject to the provisions of the FMLA, an eligible employee who is the spouse, child, parent, or nearest blood relative of a covered service member who is recovering from a serious illness or injury is entitled to up to twenty-six (26) weeks of leave in a single twelve (12) month period to care for the service member. The “single twelve (12) month period” begins on the first day the employee takes military caregiver leave and ends twelve (12) months after that date.

Amount of Family/Medical Leave

In no event can family/medical leave last for longer than twelve weeks per year except for military caregiver leave as described in paragraph 6 above. The year, for these purposes, shall be July 1 through June 30 except for military caregiver leave as described in paragraph 6 above.

As previously indicated in this Policy, an employee may take up to twenty-six (26) weeks of family medical leave to care for a covered service member during a single twelve (12) month period. For the purpose of calculating an employee’s eligibility for the military caregiver leave, a “single twelve (12) month period” begins on the first day the employee takes military caregiver leave and ends twelve (12) months after that date. An employee may not carry over any unused military caregiver leave and such leave is provided only on a per-service member, per-injury basis.

Employees who wish to take family/medical leave will be required to substitute any accrued but unused vacation and other leave for family/medical leave (i.e. use of other leave will count as concurrent use of family/medical leave). If other accrued leave is exhausted in less than twelve weeks, employees may augment such leave with family/medical leave until the total of all leave equals twelve weeks. No additional vacation or sick leave will accrue while an employee is on family/medical leave. However, upon returning to work, employees will continue to accrue vacation and other leave.

Any employee who is taking family/medical leave on account of a serious medical condition of himself, a spouse, a child, or a parent or for the serious injury or illness of a covered service member or when necessary because of a qualifying exigency caused by a family member’s call to active military duty with the armed forces may take leave intermittently or on a reduced schedule basis. Employees taking family/medical leave for any other reason are not entitled to leave on intermittent or reduced schedule basis. When necessary, an employee on intermittent or reduced

schedule leave may be transferred to another position, with no loss in pay or benefits, which will more easily accommodate the need for leave.

Special Rules for Teachers

Congress created special rules for teachers who must take family/medical leave intermittently due to their own or covered relatives' serious health conditions.

If the teacher would be on leave for more than twenty percent of the working days in the period for which the teacher seeks intermittent leave, the school district may require the teacher to elect either (1) to take non-intermittent leave for the period not to exceed the duration for the planned medical treatment or

(2) to transfer temporarily to an available alternative position that the employee is qualified to hold, that has equivalent pay and benefits, and that better accommodates intermittent leave than the employee's regular position.

Special provisions also limit teachers' rights to take family/medical leave, either intermittent or non-intermittent, close to the end of an academic term. The United States Department of Labor's regulations define "academic term" to mean a semester. If a teacher wishes to begin family/medical leave (for any purpose) more than five weeks before the end of the term and to return with less than three weeks left in the term, the school district may require the teacher to remain on leave until the end of the term. If the employee wishes to begin family/medical leave (for any purpose except his own serious health condition) more than three but less than five weeks before the end of the term and to return during the last two weeks of the term, the school district may require the teacher to remain on leave until the end of the term. If the teacher wishes to begin family/medical leave (for any purpose except his own serious health condition) during the last three weeks of the term and wishes to take leave of more than five working days, the school district may require the teacher to remain on leave until the end of the term.

Health and Other Insurance Benefits

During the family/medical leave, an employee's health insurance will continue on the same basis as when the employee was on active status. If this requires employee contribution for health insurance, the employee must make timely premium payments in order to maintain insurance for him/herself and dependents. If an employee does not return from family/medical leave the school district is entitled to collect all health premiums paid during the family/medical leave from the employee.

It may be necessary for the employee to continue other benefits as well, such as disability or life insurance, in order to be entitled to the same coverage upon return from leave. Employees will be required to pay premiums for any coverage which must be continued during the leave.

Notice of Leave

Employees seeking leave must provide, to the extent practicable, thirty days notice that they intend to take family/medical leave. If an employee does not provide at least thirty days notice, an explanation must be provided as to why less notice was given. The school district may either permit the employee to begin the leave as requested or require him to wait thirty days until after notice was provided to begin leave.

In the event an employee requires leave for a foreseeable qualifying exigency because a spouse, child, or parent of an employee is called to active duty (or is notified of an impending call or order to active duty), an employee shall provide the School District with such notice as is reasonable and practicable.

Forms for notifying the school district of the need for leave are available from either the superintendent's office or the office of the building administrator.

Certification of Need for Leave

Each employee requesting family/medical leave on account of a medical condition of the employee, spouse, child, or parent must provide certification from a health care provider which sets forth:

1. The name, address, telephone, number, and fax number of the health care provider and type of medical practice/specialization;
2. The approximate date on which the serious health condition commenced, and its probable duration;
3. A statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave. Medical facts may include symptoms, diagnosis, hospitalization, or other such information as provided by the FMLA.
4. If the employee is the patient, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability;
5. If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member;
6. If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent

- or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;
7. If an employee requests leave on an intermittent or reduced schedule basis for the employee's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and
 8. If an employee requests leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such leave is medically necessary to care for the family member and an estimate of the frequency and duration of the required leave.

The employee must provide a medical certification meeting the above-referenced criteria from the employee's medical care provider within fifteen (15) days of the School District's request for certification. Optional forms are available from the Superintendent's Office. In the event the employee fails to return the medical certification within fifteen (15) days after the School District's request, the District may deny the employee leave in accordance with the regulations implementing the FMLA."

Certification of Leave Taken Because of a Qualifying Exigency:

Employees requesting FMLA leave because of a qualifying exigency caused by a covered family member's call to active military duty with the Armed Forces must provide documentation of such order to active service and may include active duty orders or other documentation issued by the military that indicates the covered military family member is on active duty, or called to active duty, in support of a contingency operation and the dates of the active duty service. For any other type of qualifying exigency, the School District may require an employee provide certification or other such documentation to the extent permitted by the FMLA.

Certification for Leave Taken to Care for a Covered Service Member (Military Caregiver Leave).

Employees requesting FMLA leave to care for a covered service member with a serious injury or illness must obtain a certification completed by an authorized health care provider (as provided for by 29 C.F.R. § 825.310) for the covered service member. The School District may request such information from the covered service member's health care provider to the extent permitted by the FMLA in order to establish an employee's eligibility for FMLA leave.

The FMLA defines "covered service member" as a: (1) member of the Armed Forces (including a member of the National Guard or Reserves) who is

undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is on the temporary disability retired list, for a serious injury or illness; or (2) a veteran of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness incurred in the line of duty and who was a member of the Armed Forces at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

Reinstatement

At the beginning of the family/medical leave, the employee is to inform the superintendent of his expected return date. Except as otherwise provided by law, employees will be returned to the same or an equivalent position to the position occupied before the leave begins. An equivalent position is one that is similar in terms of pay, benefits and terms and conditions of employment. Under certain conditions a “key employee” may not be reinstated to the same or a similar position.

If the employee takes leave on account of his serious medical condition, he will be required to present a medical certification of his fitness for duty before being permitted to return. If an employee fails to provide this certification within fifty days after the conclusion of the leave, the employee may be terminated.

Legal References:

29 CFR 825, codified as 29 USC § 2654, *The Family and Medical Leave Act of 1993*

Adopted 2000

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