

Pursuant to the Family and Medical Leave Act of 1993, the school district will provide up to 12 weeks of unpaid family/medical leave (or up to 26 weeks for the care of a service member) per year 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 (12) months and who have worked at least 900 hours in the twelve (12) months preceding the date that requested leave is to begin are eligible for family/medical leave. Employees also must work within 75 miles of at least 50 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 follow circumstances:

- To care for a newborn child, so long as leave is completed by the child's first birthday.
- Placement of a child for adoption or foster care, so long as the leave is completed by one year following initial placement.
- Because the employee has a serious health condition which renders him unable to perform his job.
- To care for a spouse, child or parent of an employee who requires such care because of a serious health condition.
- Because of any qualifying exigency (as defined by the Department of Labor) arising from the fact an employee's spouse, child, 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. 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 active duty where the employer and the district may agree to the leave.
- 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 (other than service member leave) last for longer than twelve (12) weeks per year. The "single twelve (12) month period" begins on the first day the employee takes family/medical leave and ends twelve (12) months after that date. 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 (12) weeks, employees may augment such leave with family/medical leave until the total of all leave equals twelve (12) weeks. No additional vacation or sick leave will accrue while an employee is on family/medical leave.

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.

An employee who is taking family/medical leave on account of a serious medical condition of himself/herself, a spouse, a parent, service member, or for a qualifying exigency, 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 an 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 20 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:

- To take non-intermittent leave for the period not to exceed the duration of the planned medical treatment.
- 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 (5) weeks before the end of the term and to return with less than three (3) 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) during the last three (3) weeks of the term and wishes to take leave of more than five (5) 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 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 contributions for health insurance, the employee must make timely premium payments in order to maintain insurance for himself/herself and dependents. If an employee does not return from family/medical leave, the

school district is entitled to reimbursement from the employee for 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, 30 days' notice that they intent to take family/medical leave. If an employee does not provide at least 30 days' notice, and the need for leave was foreseeable, an explanation must be provided as to why less notice was given.

In the event that 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 the business office.

### **Certification of Need for Leave**

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

- The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization.
- The approximate date on which the serious health condition commenced, and its probable duration.
- 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.
- 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.
- 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.
- If an employee requests leave on an intermittent or reduced-schedule basis for the 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.

- If an employee requests leave on an intermittent or reduced-schedule basis for the employee's serious health condition 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.
- 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.

Forms for medical certifications are available from the business office. These forms must be provided within fifteen (15) days after the request for leave is made. Employees who do not provide this information in a timely manner may be denied leave in accordance with the regulations implementing the Family and Medical Leave Act.

### **Reinstatement**

At the beginning of the family/medical leave, the employee is to inform the superintendent (or his/her designee) of his/her 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 began. 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 similar position.

If the employee takes leave on account of his/her serious medical condition, he/she will be required to present a medical certification of his/her fitness for duty before being permitted to return. If an employee fails to provide this certification within fifty (50) days after the conclusion of the leave, the employee may be terminated.

### **Legal References:**

*29 U.S.C. §2601 et. Seq., Family and Medical Leave Act of 1993*