



Book	Policy Book
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## FAMILY AND MEDICAL LEAVE POLICY

### I. Board Policy

The Board of Education intends that the policy of the school District conforms to laws regarding family and medical leave. This policy is intended to reflect the employee's rights under the federal Family and Medical Leave Act. To the extent other policies of the District provide additional or more generous leave, those policies shall govern, so long as they are not in conflict with this one. In no case shall any other policy of the District be interpreted in a manner that violates the requirements of the Family and Medical Leave Act.

### II. Definitions

**Eligible Employee:** An employee of the District who has been employed for at least twelve months by the District and has worked at least 1,250 hours during the previous twelve month period immediately prior to the commencement of any leave requested under this policy.

**Domestic Partner:** Domestic Partner means an unrelated individual of the same-sex or opposite-sex with respect to when the employee submits an affidavit of domestic partnership to the Employer. The affidavit must include the following statements:

- A. both partners are at least 18 years of age;
- B. both partners have shared a residence for at least the 36 months immediately preceding enrollment and intend to do so indefinitely;
- C. each partner is the other's sole Domestic Partner;
- D. neither partner is legally married to anyone;
- E. the partners are not related by blood closer than would bar marriage in the state in which they live;
- F. both partners are legally competent to contract.

**Workweek:** A workweek is defined as the current number of days and/or hours worked per week at the time of the Family Medical Leave request.

**Employment Benefits:** All benefits provided by the District to its employees such as group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pension or retirement benefits.

**Parent:** The biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. The term parent does not include parent "in law".

**Son or Daughter:** A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

- A. under 18 years of age; or
- B. 18 years of age or older and incapable of self-care due to mental or physical disability.

**Spouse:** A husband or wife, as the case may be.

**Serious Health Condition:** Illness, injury, impairment, or physical or mental condition that involves:

- A. inpatient care in a hospital, hospice, or residential medical care facility or;
- B. continuing treatment by a health care provider.

**Covered Service member:** A covered service member is:

- A. a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; or is in outpatient status or is on the temporary disability retired list, for a serious injury or illness; or
- B. a veteran who is undergoing medical treatment, recuperation, or therapy; or is in outpatient status or is on the temporary disability retired list, for a serious injury or illness who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the five

year period preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

**Instructional Employee:** An "instructional employee" is an employee of the District whose principal function is to teach and instruct students in a class, a small group, or an individual setting. It includes teachers, athletic coaches, and special education assistants; it does not include teacher assistants, paraprofessionals or aides whose principal job is not teaching or instructing, nor does it include counselors, school psychologists, cafeteria workers, maintenance workers, or bus drivers.

### III. Calculation of Leave Entitlement

The District calculates FMLA leave entitlement on the basis of a 12-month period measured forward from the date an employee first uses FMLA leave, and that year's entitlement ends 365 days after the first day of FMLA use. The next 12-month period begins the first time FMLA leave is taken after completion of any previous 12-month period.

### IV. Types and Amounts of Leave

#### A. Family and Medical Leave

Eligible employees are entitled to 12-weeks of leave entitlement for the following:

1. the birth of a son or daughter of the employee and to care for such son or daughter;
2. the placement of a son or daughter with the employee for adoption or foster care;
3. to care for the son, daughter, spouse, domestic partner or parent (but not a parent "in law") of the employee where that person has a serious health condition; and
4. because of the employee's own serious health condition.

#### B. Military/Qualifying Exigency Leave

Eligible employees with a son, daughter, spouse, domestic partner, or parent on covered active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. Employees requesting leave because of a qualifying exigency are required to submit Form WH-384, which is available from Human Resources.

#### C. Covered Servicemember Family Leave

FMLA also includes a special leave entitlement that permits an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember to take up to 26 workweeks of leave to care for the servicemember during a single 12-month period. This 26 week military caregiver leave may be reduced by the amount of FMLA leave previously taken by the employee for other reasons, so that the total amount of leave does not exceed 26 weeks.

### V. Both Spouses or Domestic Partners Employed by the District

In any case where both spouses or domestic partners are FMLA-eligible employees of the District, and both seek leave under this policy; such leave shall be limited to a combined total of twelve work weeks during any twelve month period if:

- A. the leave is for the birth of a child or placement of a child for adoption or foster care; or
- B. the leave is to care for a parent with a serious health condition.

### VI. Intermittent or Reduced Schedule Leave for All Employees

A. Leave under subsection IV.4.(A)(1) and (2) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the District agree otherwise.

1. This restriction does not apply where intermittent or reduced schedule leave is necessary because of the mother's serious health condition in connection with the birth of a child or if a newborn child has a serious health condition.

B. Leave under subsection IV.4.(A) (3) and (4) may be taken intermittently or on a reduced leave schedule when medically necessary.

C. The taking of leave intermittently or on a reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

D. If an employee requests intermittent leave, or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the District may require such employee to transfer temporarily to an available alternative position offered by the District for which the employee is qualified and that:

1. Has equivalent pay and benefits; and
2. Better accommodates recurring periods of leave than the regular employment position of the employee.

### VII. Limitations on Intermittent Leave for Instructional Employees

A. This provision applies only to eligible instructional employees needing intermittent leave or leave on a reduced leave schedule to:

1. Care for a family member with a serious health condition, to care for a covered service member, or because of the employee's own serious health condition;
2. The need for leave is foreseeable based on planned medical treatment; and
3. Where the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend.

B. If an eligible instructional employee meeting the requirements of paragraph A needs intermittent leave or leave on a reduced leave schedule, the District may require the employee to choose one of the following options:

1. Take leave for a period of a particular duration, not greater than the duration of the planned treatment; or
2. Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.

### VIII. Limitations on Leave Near the End of An Academic Term for Instructional Employees

A. Leave Commencing More Than 5 Weeks Before End of Term. Regardless of the reason for the leave, where an instructional employee begins his/her FMLA leave more than five weeks before the end of an academic term, the District may require the employee to continue taking leave until the end of the term if:

1. The leave will last at least three weeks; and
2. The employee would return to work during the three-week period before the end of the term.

B. Leave Commencing During the 5 Week Period Before End of Term. Where an instructional employee begins his/her FMLA leave during the five week period before the end of an academic term, the District may require the employee to continue taking leave until the end of the term if:

1. The reason for the leave is because of the birth of a son or daughter, the placement of a son or daughter for adoption or foster care, to care

for a spouse, son, daughter, or parent with a serious health condition, or to care for a covered service member;

2. The leave will last more than two weeks, and
  3. The employee would return to work during the two-week period before the end of the term.
- C. Leave Commencing During the 3 Week Period Before End of Term. Where an instructional employee begins his/her FMLA leave during the three-week period before the end of a term, the District may require the employee to continue taking leave until the end of the term if:
1. The reason for the leave is because of the birth of a son or daughter, the placement of a son or daughter for adoption or foster care, to care for a spouse, son, daughter, or parent with a serious health condition, or to care for a covered service member;
  2. The leave will last more than five working days.
- D. The District is not required to require the employee to stay on leave until the end of the academic term.
- E. If an instructional employee 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 available FMLA leave entitlement.
- F. Where the instructional employee is on FMLA leave at the end of the school year, the District shall provide any benefits over the summer vacation that the instructional employee would normally receive if the employee had been working at the end of the school year.

#### IX. Notice and Procedures for Requesting Leave

An employee must:

- A. provide the District at least thirty days prior written notice of any anticipated leave under this policy when the leave is foreseeable (i.e., birth or adoption of a child, scheduled non-emergency surgery, etc.);
- B. provide as much notice as practicable when the leave is not foreseeable; and
- C. to the extent possible, schedule non-emergency treatments so as not to disrupt the operations of the District.
- D. All requests for FMLA leave should be submitted to the Human Resources Department.

#### X. Required Medical Certification

All requests for leave based on a serious health condition under this policy must be supported by documentation issued by the relevant health care provider of the eligible employee or the son, daughter, spouse, domestic partner, or parent of the employee.

- A. The employee has up to 15 calendar days to provide medical certification after leave is requested.
- B. Certification must include:
  1. the date on which the serious health condition began;
  2. the probable duration of the condition;
  3. the appropriate medical facts regarding the condition;
  4. a statement that the serious health condition prevents the employee from performing the functions of the position or requires the employee to care for a son, daughter, spouse, domestic partner, or parent and an estimate of time that such employee is needed to care for the son, daughter, spouse, domestic partner, or parent.
- C. In any case in which the District has reason to doubt the validity of the certification provided, The District may require, at the expense of the District, that the employee obtain a second opinion from a qualified health professional.
- D. In any case in which the second opinion described in subsection (C) differs from the opinion in the original certification provided under subsection (B), the District may require, at the expense of the District, that the employee obtain the opinion of a third health care provider designated or approved jointly by the District and the employee. The opinion of the third health care provider shall be considered to be final and shall be binding on the District and the employee.
- E. The District may require that the eligible employee obtain subsequent recertification on a reasonable basis.
- F. The District requires a fitness of duty certification before an employee returns to work after an absence for the employee's serious health condition.

#### XI. Coordination with Other Leave

- A. Substitution of Other Accrued Paid Leave: The eligible employee shall be required to substitute any accrued paid vacation leave, personal leave, maternity/paternity or sick leave of the employee in place of unpaid leave for any part or all of the available FMLA leave period. In other words, the paid leave and unpaid FMLA leave will run concurrently and the employee will receive pay during what would otherwise be unpaid FMLA leave. The period of time during which paid leave is substituted for unpaid leave will be counted against the employee's available FMLA entitlement.
- B. After exhaustion of any paid leave, the balance of the FMLA leave will be unpaid.
- C. Nothing shall require the District to provide paid sick leave in any situation where it is not otherwise provided under other District policies, contracts, or professional agreements.
- D. If the employee is unable to return to work at the conclusion of the employee's FMLA leave, the employee may request additional unpaid leave pursuant to applicable District policies; all leave must be approved.

#### XII. Restoration of the Employee

An employee who takes leave in conformance with this policy is entitled to:

- A. be restored to the position held by the employee prior to leave; or
- B. be provided an equivalent position in terms of benefits, pay and responsibilities.

#### XIII. Effect on Benefits

No benefit accrued prior to taking leave shall be lost as a result of taking leave under this policy. The District shall maintain the employee's health coverage under the employee's group health plan for the duration of the FMLA leave.

#### XIV. Denial of Reinstatement after Family Medical Leave

The District may deny a reinstatement after Family Medical Leave if:

- A. the denial is necessary to prevent substantial and grievous economic injury to the operations of the District;
- B. the District notifies the employee of the intent of the District to deny restoration on such basis at the time the District determines that such injury would occur; and
- C. in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice; and
- D. the employee is a salaried eligible employee who is among the highest paid 10% of employees of the District;
- E. the employee's position was eliminated while the employee was on leave; or
- F. It is discovered that the employee worked for another employer while on FMLA leave, or otherwise acted in a manner inconsistent with the claimed basis for the leave.

#### XV. Failure to Return

If an employee fails to return to work after leave expires for reasons other than continuation, recurrence or onset of a serious health condition of the employee, son, daughter, spouse, domestic partner, or parent then the District may recover the premium paid for maintaining health insurance coverage

for the employee during the leave period.

**XVI. Conditions of This Policy**

Employees may be denied Family Medical Leave if employees do not follow the conditions of this policy.

**XVII. Posting of Notice**

The District shall post in a conspicuous place on school premises a notice of rights under this policy.

**References:**

29 U.S.C. §2601 - The Family and Medical Leave Act

Policy 7060 - Sick Leave Bank

Policy 7070 - Paid Leave for Maternity and Paternity