

FAMILY AND MEDICAL LEAVE REGULATION

The following regulations shall apply only to leave under the Family and Medical Leave Act of 1993 (FMLA).

Eligibility

An employee who has worked for the district for at least 12 months is eligible for 12 weeks of FMLA leave during a 12 month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave.

The 12 month period will be determined as follows: a rolling 12 month period measured backward from the date an employee uses any FMLA leave (but not before August 5, 1993).

Right to Benefits During Leave

An eligible employee is entitled to a combined total of twelve weeks of unpaid family and medical leave. Any employee who uses the unpaid leave shall have his/her health benefits continued during the leave, shall not have any previously accrued benefits altered and shall be returned to an equivalent position according to established board policies and collective bargaining agreements. The employee is not entitled to accrue seniority during the leave.

An employee may elect to use available paid leave time for purposes of a family or medical leave. However, an employee may only use accrued medical/sick leave in accordance with an applicable collective bargaining agreement.

Types of Leave

Family leave is available when a son or daughter is born to the employee, adopted by an employee or placed with the employee for foster care. Medical leave is available in order for the employee to take care of a spouse, child, or parent who has a serious health condition or when the employee has a serious health condition rendering him/her unable to perform the essential functions of the employee's job.

A son or daughter shall include any individual whether biological, adopted, a foster child, a stepchild, a legal ward, or other child to whom the employee stands *in loco parentis* who is under eighteen years of age, or if over eighteen, is incapable of self-care due to a mental or physical disability. A parent shall include the biological parent of the employee or an individual who stood *in loco parentis* to the employee when he/she was a son/daughter. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Family leave must be taken within one year of the birth or placement of the employee's child. If both spouses are employed by the same school district, the combined amount of leave for birth, adoption, foster care placement and parental illness may be limited to twelve (12) weeks. An employee may not take leave to care for a parent-in-law. This limitation does not apply to medical leave taken by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his/her own serious illness.

Policy 9520.2R

Notice to take Leave

The employee shall notify the district of his/her request for family or medical leave at least thirty (30) days prior to the date when the leave is to begin, when such leave is foreseeable. If such leave is not foreseeable then notice shall be given as early as is practical. If the employee requests medical leave, reasonable attempts shall be made to schedule treatment so as not to disrupt the district's operations.

Intermittent and Reduced Leave

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury. Reduced leave is a leave schedule that reduced the employee's usual number of hours per workweek or hours per workday.

An employee who requests family leave, shall not be provided intermittent leave or a reduced leave schedule unless the employee and district mutually agree. The employee who uses family leave is not automatically entitled to use such leave on an intermittent or reduced schedule basis.

Intermittent leave may be provided for medical leave, however, the district may transfer the employee to a comparable position if it will better accommodate such intermittent periods of leave.

Instructional Employees: For instructional employees who request medical leave and it is foreseeable that the medical treatment shall cause the employee to be on leave for more than 20% of the total number of working days in the period of leave, the district may require the employee to take leave for the duration of the treatment or to transfer to an equivalent position for which the employee is qualified, but which better accommodates intermittent periods of leave.

Certification

The district may require the employee requesting medical leave to present a certification from the health care provider of the person for whom the employee is taking the leave. Upon request by the district, the employee must provide the certification within 15 days. The certificate shall include:

1. The date on which the serious health condition commenced;
2. The probable duration of the condition;
3. The appropriate medical facts within the knowledge of the health care provider regarding the condition;
4. A statement the employee is needed to care for the family member and an estimate of the amount of time that such employee shall be needed or a statement that the employee is unable to perform the functions of the employee's position; and
5. The dates and duration of medical treatment if the request for intermittent leave for a planned medical treatment.

If the district doubts the validity of the certification, then, at the district's expense, a second opinion may be required from a health care provider selected by the district. The school physician cannot give this opinion. If the two opinions conflict, a third health care provider, at the district's expense, may be chosen by the two parties to render a final opinion.

Restoration

When the employee returns from leave, the district will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment in accordance with board policy.

Instructional Employees: An instructional employee who begins any type of leave more than five (5) weeks before the end of an academic term, may be required to remain on leave until the new term begins if the leave is at least three (3) weeks long and the employee would return during the last three (3) weeks of the term. An instructional employee who begins leave, for any purpose other than personal illness, five (5) weeks or less before the end of an academic term, may be required to remain on leave until the new term begins if the leave is greater than two (2) weeks and the employee would return during the last two (2) weeks of the term. An instructional employee who begins leave, for any purpose other than personal illness, less than three (3) weeks prior to the end of the term and the leave is longer than five (5) working days, may be required to remain on leave until the new term begins.

Failure to Return

The district may recover the health care premiums paid during the leave when the employee fails to return from the leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence, or onset of a serious health condition or due to circumstances beyond the control of the employee.

Effect on Existing Laws or Agreements

Any collective bargaining agreement which contains greater leave benefits than this policy shall remain in force.

Notice of Policy

The district shall post a notice on the bulletin board, prepared or approved by the Secretary of Labor, stating the pertinent provisions of the Family and Medical Leave Act, including information concerning enforcement of the Law.

Adopted: September 14, 1999

July 1999