

SUBJECT: FAMILY AND MEDICAL LEAVE ACT

The Board of Education, in accordance with the Family and Medical Leave Act of 1993 (FMLA), gives "eligible" employees of the District the right to take leave for a period of up to twelve (12) workweeks, or in certain cases, 26 workweeks, in a twelve-month period. Leave is unpaid except as provided below. The District will compute the twelve-month period according to the following time frame: a "rolling" twelve-month period will be used that is measured backward from the date an employee uses any FMLA leave.

Employees are "eligible" if they have been employed by the District for at least twelve (12) months and for at least 1,250 hours of service during the previous twelve-month period. Full-time teachers are deemed to meet the 1,250 hour test. The law covers both full-time and part-time employees.

Amount and Reasons For FMLA Leave

Eligible employees are entitled to take up to 12 workweeks of FMLA leave in a 12-month period for any one or more of the reasons listed below:

- a) The birth of a child and to bond with the newborn child within one year of birth;
- b) The placement of a child with the employee for adoption or foster care and to bond with the newly placed child within one year of placement;
- c) To care for a spouse, child or parent who has a serious health condition;
- d) A "Serious Health Condition," as that term is defined in the FMLA and its regulations, that makes the employee unable to perform one or more of the essential functions of the employee's job including health conditions relating to pregnancy, childbirth and related medical conditions; and
- e) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty.

Service Member Family Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative of that individual) of a covered service member who is recovering from a serious illness or injury sustained in the line of duty while on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during a single 12-month period during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

The term "covered service member" means a member of the Armed Forces, including a member of the National Guard or Reserves.

(Continued)

SUBJECT: FAMILY AND MEDICAL LEAVE ACT (Cont'd)

Leave Prior to the Use of FMLA Benefits ("Pre-FMLA Leave")

Employees recovering from a Serious Health Condition (as that term is defined in the FMLA and its regulations), including mothers recovering from childbirth, may use up to a maximum of 30 sick days, if they have them pursuant to the applicable collective bargaining agreement, prior to beginning FMLA leave ("Pre-FMLA Leave"). For purposes of Pre-FMLA Leave, a mother will be deemed to be recovering from childbirth for six calendar weeks following a vaginal delivery or eight calendar weeks following a caesarian section. Thereafter, adequate medical documentation, in the sole and non-grievable judgment of the Superintendent, must be provided.

Mothers who deliver a baby during the summer recess, and who are not otherwise scheduled to work during the summer recess, may use Pre-FMLA Leave (up to a maximum of 30 sick days) for that portion of their recovery from childbirth, if any, that overlaps with the beginning of the school year. For mothers who do not work during the summer recess, pre-FMLA Leave will end when the school year ends.

Pre-FMLA Leave may not be used to bond with a child or to care for a spouse, child or parent who has a serious health condition.

Use of Paid Leave During FMLA Leave

FMLA leave will be unpaid except in those circumstances, described below, in which an employee may use the sick, vacation and/or personal leave ("accruals"), if any, to which he/she is entitled concurrently with FMLA leave. Accruals may only be used, and will be paid, consistent with the applicable collective bargaining agreement, employment agreement or terms and conditions of employment. Thereafter, FMLA leave will be unpaid.

Leave for Birth and Bonding

The right to take FMLA leave applies equally to male and female employees. Therefore, a father, as well as a mother, can take family leave for: (a) the birth of a child and to bond with the newborn child within one year of birth; or (b) the placement of a child with the employee for adoption or foster care and to bond with the newly placed child within one year of placement. An employee taking FMLA leave for these reasons may use up to 30 workdays of accruals.

Serious Health Condition

An employee may use accruals, if he/she has any, during any FMLA leave due the employee's own serious health condition.

If a mother is still recovering from childbirth after using the Pre-FMLA Leave, if any, to which she is entitled, the mother may use accruals, if she has any, during any period of recovery from childbirth. This is prior, and in addition to, the up to 30 workdays of accruals that she may use, if she has them, to bond with the newborn child within one year of birth. For these purposes, a mother will be deemed to be recovering from childbirth for six calendar weeks following a vaginal delivery or eight calendar weeks following a caesarian section. Thereafter, medical certification must be provided.

**The Board of Education may authorize the use of accruals in additional situations.
Implementation/Benefits**

FMLA will run concurrently with other types of leave; i.e. short/long term disability, workers compensation.

An employee on FMLA leave is also entitled to have health benefits maintained while on leave. If an employee was paying all or part of the premium payments prior to leave, the employee will continue to pay his/her share during the leave period.

In most instances, an employee has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave.

The Board of Education has a right to thirty (30) days advance notice from the employee where practicable. In addition, the Board may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in the denial of FMLA leave. The Board may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition. The Board of Education has the right to deny restoration to employment if the employee does not furnish the certificate of fitness.

Notice for Leave Due to Active Duty of Family Member

In any case in which the necessity for leave due to any qualifying exigency is foreseeable, whether because the spouse, or a son, daughter, or parent of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

FMLA Notice

A notice which explains the FMLA's provisions and provides information concerning the procedures for filing complaints of violations of the FMLA shall be posted in each school building.

Administration is directed to develop regulations to implement this policy, informing employees of their rights and responsibilities under the FMLA.

Family and Medical Leave Act of 1993, Public Law 103-3
29 Code of Federal Regulations (CFR) Part 825

Revised: May 26, 2021

Re-Adopted: July 7, 2021