

**ADMINISTRATIVE RULE**  
**FAMILY AND MEDICAL LEAVE ACT**

The following administrative rules apply only to the **Family and Medical Leave Act (FMLA)**.

**Eligibility**

An employee who has worked for the district for at least 12 months and has worked at least 1250 hours in the previous 12-month period is eligible for 12 work weeks of **FMLA** leave during a 12-month period.

For purposes of **FMLA** leave the 12-month period is a rolling 12-month period measured backward from the date an employee uses an FMLA leave.

**Types of Leave**

An eligible employee may take **FMLA** leave for:

- \* the birth and first-year care of a child;
- \* the adoption or foster placement of a child;
- \* the serious illness of an employee's spouse, parent or child; and
- \* the employee's own serious health condition that keeps the employee from performing the essential functions of his/her job.

An employee may elect to use accrued vacation, personal or medical/sick leave for purposes of a medical leave. An employee cannot compel the district to permit the employee to use accrued medical/sick leave in any situation for which the leave could not normally be used. If the employee elects to use accrued paid leave appropriately, the district will not invoke **FMLA** leave until the other paid leaves have been exhausted.

**Spouses Employed by the School District**

If a husband and wife eligible for leave are employed by this school district, their combined amount of leave for birth, adoption, foster care placement and parental illness may be limited to 12 weeks. An employee may not take **FMLA** leave to care for a parent-in-law.

**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 reduces an employee's usual number of hours per work week, or hours per work day. Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent.

The employee who wishes to use intermittent or reduced leave must have the prior approval of the district. Although the district and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave but the district may transfer the employee to a position which is equivalent, but more suitable for intermittent periods of leave. The employee must furnish the district with the expected dates of the planned medical treatment and the duration of the treatment. The Superintendent must authorize such leave in writing.

### **Benefits**

The district will maintain the employee's health coverage under the district's group health insurance plan during the period of **FMLA** leave. The employee should make arrangements with the district to pay the employee's share of health insurance prior to the beginning of the **FMLA** leave.

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period.

### **Notice**

When **FMLA** leave is foreseeable, the employee must notify the district of his/her request for leave at least 30 days prior to the date when the leave is to begin. If the leave is not foreseeable, the employee must give notice as early as is practical. When the employee requests medical leave, the employee must make reasonable attempts to schedule treatment so as not to disrupt the district's operations.

The district may deny the leave if the employee does not meet the notice requirements.

### **Certification**

The district may require the employee to provide certification from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification a second, and, if necessary, a third opinion can be required both at the expense of the district.

Upon the employee's return to work, the district will require that the employee present a fitness statement from the employee's health care provider certifying that the employee is able to return to work.

### **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.

Under certain circumstances, the district may deny restoration to a key employee. The district will comply with the notice requirements of the **FMLA** in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the district to experience a substantial and grievous economic injury.

### **Instructional Employees**

Special leave rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a small group, or an individual setting. This term includes teachers, athletic coaches, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instruction, nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is:

- \* to care for a family member, or
- \* for the employee's own serious health condition and
- \* is foreseeable based on planned medical treatment and
- \* the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend,

then the district may require the employee to choose either to:

1. - take the leave for a period or periods 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.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five weeks before the end of a semester the district may require the employee to continue taking leave until the end of the semester 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 semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the district may require the employee to continue taking leave until the end of the semester if:

1. - the leave will last more than two weeks, and
2. - the employee would return to work during the two-week period before the end of the semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester, and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

### **Failure to Return**

The district is entitled to recover health care premiums paid during the leave if the employee fails to return from 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.

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