

Staff Personnel

Series 400

Policy Title Family and Medical Leave Code No. 428 R

The purpose of the Family and Medical Leave Act is to provide an unpaid leave of absence which enables employees to be absent from work for up to 12 work weeks without losing certain benefits. Such requests must be submitted in writing to the Superintendent. Such requests will be approved in accordance with the procedure outlined below and in compliance with the Family and Medical Leave Act.

Eligible Employees

Employees are eligible for family and medical leave under the Family and Medical Leave Act of 1993 if three criteria are met:

1. The school district has more than 50 employees on the payroll at the time leave is requested.
2. The employee has worked for the District at least twelve months or 52 weeks. (The months and weeks need not be consecutive.)
3. The employee has worked at least 1,250 hours within the previous year. Full time professional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement.

If the employee requesting leave is unable to meet the above criteria, the employee is not eligible for family and medical leave.

Eligible Reasons for Family and Medical Leave

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
2. Because of the placement of a son or daughter with the employee for adoption or foster care.
3. In order to care for the spouse, or a son, daughter, or parent of the employee if the spouse, son, daughter, or parent has a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
5. Because of a qualifying exigency arising out of the fact that a spouse, son, daughter or parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
6. Because the employee is the spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness.

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School District Notice

1. Information on the Family and Medical Leave Act and the board policy on family and medical leave, including leave provisions and employee obligations will be provided annually.
2. When an employee requests family and medical leave, the school district will provide the employee with information listing the employee's obligations and requirements. Such information shall include:
 - a. A statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement or 26-week entitlement depending on the purpose of the leave.
 - b. A reminder that employees requesting family and medical leave for a serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so or proof of call to active duty in the case of military family and medical leave.
 - c. An explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to the substitution.
 - d. A statement notifying employees that they must pay and must make arrangements for paying any premium or other payments to maintain health or other benefits.

Types of Leave

1. Foreseeable family and medical leave
 - a. Definition - Leave is foreseeable for the expected birth or placement of a child or for planned medical treatment.
 - b. The employee must give at least thirty days notice for foreseeable leave. Failure to give the notice may result in the leave beginning thirty days after notice was received. For those taking leave due to military family and medical leave, notice should be given as soon as possible.

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- c. An employee must consult with the District prior to scheduling planned medical treatment to minimize disruption to the District. The scheduling of the planned medical treatment is subject to the approval of the health care provider.
2. Unforeseeable family and medical leave
 - a. Definition - Leave is unforeseeable in such situations as emergency medical treatment or premature birth.
 - b. An employee must give notice as soon as possible but no later than one to two work days after learning that leave will be necessary.
 - c. A spouse or family member may give the notice if the employee is unable to personally give notice.

Type of Leave Requested

1. Continuous - Employee will not report to work for a set number of days or weeks.
2. Intermittent - Employee requests a reduction in the employee's regular work schedule.
3. Reduced work schedule- Employee requests a reduction in the employee's regular work schedule.

Intermittent and Reduced Leave

- (1) Intermittent and reduced leave is available for the serious health condition of the employee, spouse, parent, or child when medically necessary; birth of a child or adoption or foster care placement subject to agreement by the district; because of a qualifying exigency arising out of the fact that a spouse, son, daughter or parent is on active duty status in support of a contingency operation as a member of the National Guard or Reserves; because the employee is a spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness.
- (2) In the case of foreseeable intermittent or reduced leave, the employee must schedule the leave to minimize disruption to the District's operation.

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- (3) During the period of foreseeable intermittent or reduced leave, the District may temporarily move the employee to an alternative position with equivalent pay and benefits that would better accommodate recurring periods of leave.

Use of Paid Leave

Employees may be required to use paid leave and vacation days at the start of the leave. The remainder of the days will be unpaid. Employees may elect to substitute accrued paid leave for unpaid family and medical leave.

Medical Certification

1. An employee shall be required to present medical certification of the employee's serious health condition and inability to perform the functions of the position of the employee.
2. An employee shall be required to present medical certification of the family member's serious health condition and that it is medically necessary for the employee to take leave to care for the family member.
3. An employee shall be required to present certification of the call to active duty when taking military family and medical leave.
4. An employee must obtain the certification from the health care provider who is treating the individual with the serious health condition.
5. The district may require the employee to obtain a second certification by a health care provider chosen and paid for by the District if the District has reason to doubt the validity of the certification an employee submits. The second health care provider cannot, however, be employed by the District on a regular basis.

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6. If the second health care provider disagrees with the first health care provider, then the District may require a third health care provider to certify the serious health condition. The health care provider must be mutually agreed upon by the employee and the school district and paid for by the school district. This certification or lack of certification is binding upon both the employee and the District.
7. Medical certification must be provided fifteen days after the request for medical certification unless it is impracticable to do so. The District may request recertification every thirty days. Recertification must be submitted within fifteen days of the District's request.
8. Employees taking military caregiver family and medical leave to care for a family service member cannot be required to obtain a second opinion or to provide recertification.
9. Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification shall be denied until such certification is provided.
10. Any absence for illness for more than three (3) working days must be verified by a medical doctor. Verification must also be presented when requesting FMLA leave to care for the employee's spouse, son, daughter or parent with a serious health condition.

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Entitlement

1. Employees are entitled to twelve weeks unpaid family and medical leave per year. Employees taking military caregiver family and medical leave to care for a family service member are entitled to twenty-six weeks of unpaid family and medical leave but only in a single twelve month period. For purposes of this policy, "year" is defined as July 1 - June 30.
2. If insufficient leave is available, the school district may:
 - a. Deny the leave if entitlement is exhausted
 - b. Award leave available

Continuation of Benefits

The employer must, if the employee elects to do so, maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee remained at work for the twelve week period. Accruals for vacation, sick, and holiday pay will be suspended during the leave and will resume upon return to active employment. Should an employee fail to return from a leave taken pursuant to the Family and Medical Leave Policy, the District may recover any premiums it has paid for maintaining group insurance during the employee's leave unless the employee's failure to return is prevented by a continuation of the employee's serious health condition or that of an affected relative or circumstances beyond the employee's control.

Employee and Spouse Both Employed by District

If an employee and the employee's spouse are both employed by the District and a leave is taken for the birth, adoption or foster care of a son or daughter, or the care of a parent, the duration of the leave taken by both the employee and the spouse must not exceed 12 weeks in total.

Position Upon Return to Work

Upon return from leave, the employee will be restored to the employee's former position or an equivalent position with similar duties, hours, and pay. Any terms used from the FMLA of 1993 will be defined by that Act and/or applicable regulations. To the extent that this Policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.