FAMILY AND MEDICAL LEAVE

Family and Medical leaves are provided by the Board as required by the federal Medical Leave Act of 1993, as amended (FMLA). This policy and the corresponding regulations will be interpreted to comply with that law, as well as the Connecticut Fair Employment Practices Act (CFEPA) with respect to pregnancy-related disability leave and transfer. Employees should contact the Superintendent if they have any questions regarding how the Board's FMLA policy and regulations apply to their situation, when and how they make take leave, or any other question regarding family, medical or pregnancy-related disability.

Legal References

29 U.S.C. §2601 et. seq. (Family and Medical Leave Act of 1993)
29 C.F.R. §825 et. seq. (Family and Medical Leave Act Regulations)
C.G.S. §§46a-51(17) and 46a-60(a)(7) (Pregnancy Discrimination)

Adopted 6/7/05

FAMILY AND MEDICAL LEAVE REGULATIONS

Family and Medical leaves are required by the federal Medical Leave Act of 1993, as amended (FMLA). These regulations and the corresponding Board policy will be interpreted to comply with that law. Employees should contact the Superintendent if they have any questions regarding how these guidelines apply to their situation, when and how they may take leave, or any other question regarding disability leave.

The Basic Entitlement: An eligible employee is entitled to unpaid leave:

- To care for his or her child after birth or placement for adoption or foster care;
- To care for his or her child, spouse or parent who has a serious health condition; or
- When the employee is unable to work because of a serious health condition.

When FMLA Leave applies, an employee will be entitled to up to twelve workweeks of unpaid leave during a 12-month period. The period during which an employee may take FMLA Leave will be determined on a rolling basis, measured backwards from the date upon which an employee uses any leave. For instance, an employee requiring FMLA Leave in April will be entitled to up to twelve workweeks of leave less any leave taken since April of the prior year.

If the District employs both spouses, their combined leave cannot exceed twelve workweeks when the leave is taken for a reason other than for the illness of the employee, child or spouse.

Eligibility Requirements: In order for an employee to be eligible for FMLA Leave, he or she must have been employed by the school District for no less than twelve months and worked at least 1,250 hours in the twelve months just before the beginning of the leave.

Serious Health Condition: A serious health condition is an illness, injury, impairment or physical or mental condition involving continuing treatment by a health care provider, or any period of incapacity or treatment related to in-patient care (i.e., overnight stay) in a hospital, hospice or residential medical care facility. Continuing treatment entails:

- A period of incapacity requiring absence from work, school or other regular daily activities of more than three consecutive calendar days and subsequent

treatment or period of incapacity relating to the same condition that also includes continuing treatment by a health care provider;

- A period of incapacity due to pregnancy or prenatal care, or treatment for a chronic serious health condition, such as asthma or diabetes, which required periodic visits to a health care provider and may involve occasional episodes of incapacity; or

- Incapacity that is permanent or long-term due to a condition for which treatment may not be effective, such as terminal cancer or Alzheimer's disease.

An employee who needs to know whether he or she has a health condition that would qualify for him or her for FMLA leave should contact the Superintendent, who can provide forms to take to the employee's health care provider for this purpose.

Intermittent Leave/Reduced Hours: Leave taken intermittently or on a reduced work schedule is permitted under this policy only when medically necessary. In these cases, the employee's leave will be charged against the employee's FMLA entitlement in units of one hour. That is, an employee who takes two and one-half hours of leave as intermittent FMLA Leave will be charged three hours of FMLA Leave. This provision will have no effect on any collective bargaining agreement provisions that may provide differently for the crediting of other leave.

Unless a collective bargaining agreement provides otherwise, if the District determines that the intermittent leave would be disruptive to school operations, the District may require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent or reduced hours leave. The temporary position will have rank, pay and benefits equivalent to the employee's regular job.

Special rules affecting intermittent leave, leave on reduced leave schedule, or leave near the end of an academic term apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students, which includes not only teachers, but also athletic coaches, driving instructors and special education assistants.

Some instructional employees requesting intermittent leave or a reduced scheduled leave may be required to choose between taking leave for the entire period of the intermittent leave or transferring temporarily to an alternative position for which the employee is qualified. This will occur in those situations where the leave is foreseeable based on planned medical treatment and the intermittent leave would involve the employee being absent for more than twenty (20%) percent of the working days during the period over which the leave extends.

An instructional employee requesting leave near the end of an academic term may be required to remain on leave through the end of the term. Whether an instructional employee will be required to do so will depend on when the leave is requested and the number of weeks remaining in the term. Instructional employees requesting intermittent leave, reduced schedule leave, or leave near the end of an academic term and having questions regarding these restrictions should contact the Superintendent.

Paid Leave Substituted for (Runs Concurrently with) FMLA Leave: The federal FMLA regulations refer to "substituting" leave. This means the same thing as having two or more types of leave run concurrently. Unless an employee is on leave for his or her own serious health condition and is receiving workers' compensation or pension disability benefits, earned-paid leave will be substituted for FMLA leave and charged against the employee's FMLA Leave entitlement as set forth below.

- Vacation and personal leave will be substituted when an employee cares for his or her child after the birth or placement for adoption or foster care; and/or when an employee cares for his or her spouse**,** son, daughter or parent who has a serious health condition.

- Vacation, personal and sick leave will be substituted when the employee is unable to work because of a serious health condition.

An employee on leave for his or her own serious health condition and receiving workers' compensation or pension disability benefits, will have such leave charged against his or her FMLA entitlement.

In the event that no paid leave is available to an employee to substitute for FMLA Leave, FMLA Leave will be unpaid. The District's policies, practices and collective bargaining agreements control whether an employee has accrued paid leave.

The employee will be notified that paid leave is being substituted for, and counted against, FMLA leave. Under most circumstances, this notice will be provided within two business days of the District learning that the leave is being taken for an FMLA required reason.

Unpaid Leave Applied Toward FMLA Entitlement: In all cases where an employee is taking an unpaid child rearing leave, unpaid special leave, or other unpaid leave granted at the discretion of the District and such leave would also qualify as FMLA leave, the leave will be counted against an employee's total FMLA entitlement.

Advance Notice: A request for FMLA Leave must be made at least thirty days before the date on which the leave will begin unless the need is not foreseeable. When planning medical treatment, the employee must consult with the District and make a reasonable effort to schedule the leave so as to meet the approval of his or her health

care provider without unduly disrupting school operations. If the need for FMLA Leave is not foreseeable, the request must be made as early as possible, normally no more than one or two business days after learning when leave must be taken. Exceptions will be made only in extraordinary circumstances.

Retroactive Designation of FMLA Leave: The District may retroactively designate leave under certain circumstances. Examples include, but are not limited to**:** instances where the District just learns that the employee's leave qualifies for FMLA**;** where a sick leave becomes a serious health condition**;** where the District is in the process of confirming that the leave qualifies under the FMLA.

Medical Certification: When an employee requests a leave based on a family member's or an employee's own serious health condition, he or she must support the request with a written certification from a health care provider. The medical certification must explain the reason for the leave and the date(s), length and nature of leave anticipated.

When the leave is planned, the employee should provide the medical certification with the request, and if not with the request, before the leave begins. When the leave is not foreseeable, the employee must provide medical certification within 15 calendar days after the certification is requested, or as soon thereafter as reasonably possible. Delay in providing the certification could impact the start or continuation of leave. Failure to provide certification could result in the leave being treated as an unexcused absence. The District may require an employee to obtain a second or third opinion at the District's expense, depending on the particular circumstances of the individual case. The District shall designate the health care provider to furnish the second opinion. The health care provider for the third opinion must be approved by both the employee and the District.

Other Medical Certification: While an employee is out on leave, the District may require additional reports regarding the employee's status and intent to return to work, which may include re-certification(s) from a health care provider under certain circumstances.

Health Insurance: The District will normally continue health benefits during an employee's FMLA Leave. Employees making premium contributions to their health benefits must continue to do so, or coverage may be lost. If paid leave is substituted for FMLA Leave, any premium contributions will be paid by the method used prior to the leave (e.g., payroll deduction). If the FMLA Leave is unpaid, insurance payments must be paid in the manner the District designates. The District will notify the employee in writing of the terms and conditions by which these payments must be made. If an employee is able to return to work after the expiration of the leave but chooses not to, the employee will be required to reimburse the District for premiums the District paid to maintain his or her health coverage under certain circumstances.

Other Benefits: During FMLA leave, the employee shall not accrue any additional benefits unless otherwise provided for by contract or district policy. Employment benefits accrued by the employee up to the day on which the FMLA leave of absence begins will be available upon return from leave.

With respect to pension and retirement plans, FMLA leave will be treated as continued service for purposes of vesting and eligibility to participate.

Return to Work: An employee who took leave because of his or her own serious health condition may be required to provide a fitness-for-duty certification (medical clearance) before returning to work.

An employee returning from FMLA Leave will be returned to his or her same job position or to an equivalent position. If the employee would not have been employed at the time he or she returned to work, then the District may not reinstate him or her. For example, the District has no obligation to reinstate an employee who would have been laid off during his or her FMLA Leave.

Some higher-paid employees are considered “key employees”. Such an employee will be advised at the beginning of his or her FMLA leave that he or she is a key employee and, on that basis, may be denied restoration if it will cause substantial and grievous economic injury to the District.

An employee who is unable to return to work after exhausting his or her FMLA Leave entitlement or who would not otherwise have been employed, will be separated from employment, unless the District has granted an extension to the leave.

Pregnancy-related Leave and Transfer: Employees are entitled to leaves of absence for disability resulting from pregnancy, which may occur both before and after the birth of the child. An employee taking such leave must provide a medical certification from a health care provider in the same manner she would for FMLA leave.

When an employee’s disability also qualifies as both serious health condition under this policy, the two types of leave will run at the same time. When this happens, the leave will be counted against the employee’s FMLA leave entitlement. While on pregnancy-related disability leave, an employee will be eligible to receive the same disability benefits as an employee on a medical leave of absence. In the event no paid days are available, the leave will be unpaid. Return to work FMLA entitlements apply.

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