

REGULATION

Personnel & Negotiations

FAMILY AND MEDICAL LEAVE REGULATION

Consistent with the federal Family and Medical Leave Act of 1993, the Board of Education shall provide a minimum of twelve (12) weeks of unpaid leave in a twelve (12) month period for its eligible employees. An eligible employee must have been employed for at least twelve months, have worked at least 1,250 hours during the prior twelve months, and be employed at a worksite where at least 50 employees are employed by that employer within a 75 mile radius of that worksite.

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, or the district may require, an employee 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 the collective bargaining agreement.

Family and Medical Leave

Family leave is available when a son or daughter is born to the employee, adopted by an employee or one is 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 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 a child standing *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. Furthermore, 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 family leave or medical leave to care for a sick parent may be limited to twelve weeks. This limitation does not include medical leave to care for a child or spouse or for an employee's personal medical/sick leave.

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Notice to Take Leave

The employee shall notify the district of his/her request for family or medical leave at least 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 Leave

An employee who requests family leave, shall not be provided intermittent leave or a reduced leave schedule unless the employee and district mutually agree. 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. 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 a block of time 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 that 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 is 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.

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Restoration

An instructional employee, who begins any type of leave at least five (5) weeks before the end of an academic term, may be required not to return 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, less than five (5) weeks prior to the end of an academic term, may be required not to return 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 not to return 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

The Board shall ensure that family and medical leave, consistent with the Family and Medical Leave Act, is provided to all eligible employees, whether or not they are covered by a collective bargaining agreement. 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 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.

Adoption date: July 2003