



Administrative Regulations Regarding Employee Family and Medical Leave

Code 403.7-R1

I. School District Notice:

1. The district will post the notice in exhibit 403.7-E9 regarding family and medical leave.
2. Information on the Family and Medical Leave Act (FMLA) and board policy on family and medical leave, including leave provisions and employee obligations, will be available on the district website and through human resources.
3. When an employee requests family and medical leave the district will provide them with information listing the employee's obligations and requirements. Such information will include:
 - a. A statement clarifying whether the leave qualifies as family and medical leave and will therefore be deducted from the employee's annual 12-week entitlement, or 26 weeks if military depending on the purpose of the leave.
 - b. A reminder that employees requesting family and medical leave for their own serious health condition, for that of an immediate family member, or due to any qualifying exigency 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 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 premiums or other payments to maintain health benefits or other benefits.

II. Eligible Employees:

Employees are eligible for family and medical leave if two criteria are met:

1. The employee must have one year of service which need not be continuous provided that a break in service does not exceed seven years. Separate stints of employment will be counted for breaks in service of seven years or longer if one of the following applies:
 - a. Break in service due to National Guard or reserve military service obligation.
 - b. Written agreement reflecting employer's intention to rehire the employee after the break in service.
2. The employee has worked 1,250 hours for the district over the previous 12 months. 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, they are not eligible for family and medical leave and the district will provide information as to the reason why they are not eligible:

- a. The employee fails to meet the 12-month service requirement and the number of months the employee has been employed by the district.
- b. The employee fails to meet the 1,250-hour requirement and the number of hours of service worked for the district during the appropriate 12-month period.

III. Employee Requesting Leave:

Two Types of Leave:

1. Foreseeable Family and Medical Leave:
 - a. Definition: leave is foreseeable for the birth or placement of an adopted or foster child with the employee or for planned medical treatment.
 - b. The employee must give at least 30-days-notice for foreseeable leave including planned medical treatment for a serious injury or illness of a covered military service member, unless not practicable. Failure to give notice may result in the district counting the absences during the delay as non-FMLA absences.
 - c. The employee must consult with the district prior to scheduling planned medical treatment leave to minimize disruption to the district. Scheduling is subject to the approval of the health care provider.
 - d. In any case in which the necessity for a qualifying exigency leave is foreseeable, whether because the spouse, son, daughter, or parent of the employee is on active duty in the military, 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 district as is reasonable and practicable regardless of how far in advance leave is foreseeable.
2. Unforeseeable Family and Medical Leave:
 - a. Definition: leave is unforeseeable in such situations as emergency medical treatment or premature birth.
 - b. The 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 notice if the employee is unable to personally give notice.

IV: Eligible Family and Medical Leave Determination:

The school district may require the employee giving notice of the need for leave to provide reasonable documentation or a statement of family relationship.

1. Six Purposes:
 - a. The birth of a son or daughter of the employee, and in order to care for that son or daughter prior to the first anniversary of the child's birth.
 - b. The placement of a son or daughter with the employee for adoption or foster care, and in order to care for that son or daughter prior to the first anniversary of the child's placement.
 - c. To care for the spouse, son, daughter, or parent of the employee if the spouse, son, daughter, or parent has a serious health condition.
 - d. The employee's serious health condition makes the employee unable to perform the essential functions of their position.
 - e. Because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active military duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
 - f. Because the employee is the spouse, son or daughter, parent, or next of kin of a covered service member with a serious injury or illness.

2. Medical Certification:

When required:

- Employees shall be required to present medical certification of their serious health condition and inability to perform the essential functions of their job.
- Employees 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.
- Employees shall be required to present certification issued by the health care provider of the military service member being cared for by the employee in the case of an employee unable to return to work because of a condition specified as military service member family leave.
- Employees shall be required to present certification of next of kin of an individual in the case of leave taken under military service member family leave.

A. Employee's Medical Certification Responsibilities:

- The employee must obtain certification from the health care provider who is treating the individual with the serious health condition.
- The school district may require the employee to obtain a second certification by a health care provider chosen by and paid for by the school 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.
- If the second health care provider disagrees with the first health care provider, the school district may require a third health care provider to certify the serious health condition. This health care provider must be mutually agreed upon by the employee and the school district and paid for by the district. The certification, or lack of certification, is binding upon both the employee and the school district.
- 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.

B. Medical certification must be submitted within 15 days after family and medical leave begins unless it is impracticable to do so. The school district may request recertification every 30 days as follows:

- Upon expiration of period of incapacity specified on certification.
- If an extension to the leave is requested.
- If there is significant change in certification (complications, duration/frequency of absences, nature/severity of illness).
- If the district received information casting doubt upon continuing validity of certification.

C. 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 may be denied until such certification is provided.

D. The district may require a request for a qualifying exigency be supported by a military active duty or call to active duty certification issued at such time and in such manner as the regulation prescribes. If a military regulation requiring such certification is issued the employee shall provide, in a timely manner, a copy of the certification to the district.

V. Spouses Employed by the Same Employer:

In any case in which a husband and wife entitled to leave are both employed by the district, the aggregate number of work weeks of leave to which both may be entitled may be limited to 12 work weeks during any rolling 12-month period if such leave is taken for:

- Birth of a son or daughter of the employees or in order to care for such son or daughter.
- Because of the placement of a son or daughter with the employees for adoption or foster care, or to care for the child after placement.
- To care for the employee's parent with a serious health condition or military service member family leave.

The aggregate number of work weeks of leave to which both the husband and wife may be entitled may be limited to 26 work weeks during the single 12-month rolling period if it is military service member family leave or a combination of military service member leave and other leave as described in items 1-3 above. If the leave taken by the husband and wife includes other leave defined in items 1-3 above the limitation of 12 work weeks in a 12-month rolling period applies to that leave.

VI. Entitlement:

1. Employees are entitled to 12 weeks unpaid family and medical leave per year. Employees who are the spouse, son, daughter, parent, or next of kin of a covered military service member who is recovering from a serious illness or injury sustained in the line of duty on active duty shall be entitled to a combined total of 26 work weeks of leave per year to care for the service member and for other types of FMLA leave.
2. Year is defined as rolling; measured forward from the first day leave is used.
3. If insufficient leave is available the school district may:
 - Deny the leave if entitlement is exhausted.
 - Award leave available.
 - Award leave in accordance with other provisions of board policy or the collective bargaining agreement.

VII. Type of Leave Requested:

1. Continuous: Employee will not report to work for set number of days or weeks.
2. Intermittent: Employee requests family and medical leave for separate periods of time.
 - A. Intermittent leave is available for:
 - Birth, adoption, or foster care placement of child only with the district's agreement.
 - Serious health condition of the employee, spouse, parent, or child when medically necessary without the school district's agreement.
 - Any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active military duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
 - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered military service member to care for the military service member who is recovering from a serious illness or injury sustained in the line of duty on active duty.
 - B. In the case of foreseeable intermittent leave the employee must schedule the leave to minimize disruption to the school district operation.

- C. During the period foreseeable intermittent leave the district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see VIII below.)*
 - D. The district may require fit for duty certification every 30 days if the employee has used intermittent leave and reasonable safety concerns exist regarding the employee's ability to perform his or her duties.
3. Reduced Work Schedule: Employee requests a reduction in their regular work schedule.
- A. Reduced work schedule family and medical leave is available for:
 - o Birth, adoption, or foster care placement and subject to the district's agreement.
 - o Serious health condition of the employee, spouse, parent, or child when medically necessary.
 - o Any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active military duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
 - o An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered military service member to care for the service member who is recovering from a serious illness or injury sustained in the line of duty on active duty.
 - B. In the case of foreseeable reduced work schedule leave based on planned medical treatment for the employee, the employee must schedule the leave to minimize disruption to the school district operation. The district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see VIII below.)*
 - C. During the period of foreseeable reduced work schedule leave based on planned medical treatment for the family member, the district may move the employee to an alternative position with equivalent pay and benefits. *(For instructional employees, see VIII below.)*

VIII. Special Rules for Instructional Employees:

1. Definition: An instructional employee is one whose principal function is to teach and instruct students in a class, small group, or individual setting. This includes, but is not limited to, school administrators, teachers, coaches, driver's education instructors, and special education assistants.
2. Instructional employees who request foreseeable, medically necessary intermittent or reduced work schedule family and medical leave greater than 20% of the work days in the leave period may be required to:
 - Take leave for the entire period, or periods, of the planned medical treatment.
 - Move to an available alternative position with equivalent pay and benefits but not necessarily equivalent duties for which the employee is qualified.
3. Instructional employees who request continuous family and medical leave near the end of a semester may be required to extend the family and medical leave through the end of the semester. The number of weeks remaining before the end of a semester does not include scheduled school breaks such as summer, winter, or spring break.

- If an instructional employee begins family and medical leave for any purpose more than five weeks before the end of a semester, the district may require that the leave be continued until the end of the semester if the leave will last at least three weeks and the employee would return to work during the last three weeks of the semester if the leave was not continued.
 - If the employee begins family and medical leave for a purpose other than the employee's own serious health condition during the last five weeks of a semester, the district may require that the leave be continued until the end of the semester if the leave will last more than two weeks and the employee would return to work during the last two weeks of the semester.
 - If the employee begins family and medical leave for a purpose other than the employee's own serious health condition during the last three weeks of the 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.
4. The entire period of leave taken under the special rules is credited as family and medical leave. The district will continue to fulfill the school district's family and medical leave responsibilities and obligations, including the obligation to continue the employee's health insurance and other benefits if an instructional employee's family and medical leave entitlement ends before the involuntary leave period expires.

IX. Employee Responsibilities while on Family and Medical Leave:

1. Employee must continue to pay health care benefit contributions or other benefit contributions regularly paid by the employee unless the employee elects not to continue the benefits.
2. The employee contribution payments will be deducted from any money owed to the employee or the employee will reimburse the district at a time set by the superintendent or designee.
3. An employee who fails to make the health care contribution payments within 30 days after they are due will be notified that their coverage may be canceled if payment is not received within an additional 15 days.
4. An employee may be asked to recertify the medical necessity of family and medical leave for the serious medical condition of an employee or family member once every 30 days or sixth month in the condition of an absence and return the certification within 15 days of the request.
5. The employee must notify the school district of their intent to return to work at least once each month during their leave and at least two days prior to the conclusion of the family and medical leave.
6. If the employee has been absent for more than one calendar week or more, the employee is required to present a fitness-for-duty certificate from their physician stating their ability to perform the essential job functions prior to reporting back to work. If an employee fails to provide a certificate they will lose their right to reinstatement under the law unless they have requested additional FMLA leave.
7. If an employee intends not to return to work the employee must immediately notify the district in writing of their intent not to return. The district will cease benefits upon receipt of the notification.

X. Use of Paid Leave for Family and Medical Leave:

An employee is required to substitute unpaid family and medical leave with any applicable paid leave available to them under board policy, individual contracts, or the collective bargaining agreement. Paid leave includes but is not limited to sick leave, family illness leave, vacation, personal leave, bereavement leave, and professional leave. When the district determines that paid leave is being taken for an FMLA reason, the district will notify the employee that the paid leave will be counted as FMLA leave.

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