

## FAMILY AND MEDICAL LEAVE ACT

Consistent with the federal Family and Medical Leave Act of 1993 ("FMLA"), the Board of Education shall provide eligible employees with up to 12 weeks of unpaid leave in a 12-month period for certain family and medical reasons ("Basic FMLA Leave") and up to 26 weeks of unpaid leave in a single 12-month period to care for a military covered servicemember who has a serious injury or illness that incurred in the line of active duty ("Military Caregiver FMLA Leave").

### 1. Qualifications

An employee is eligible for leave under FMLA if the employee has been employed by the District for at least twelve months, has worked at least 1,250 hours during the prior twelve months, and is employed at a worksite where at least 50 employees are employed by the District within a 75 mile radius of that worksite. Full-time classroom teachers are presumed to meet the 1,250 hour requirement.

### 2. Reasons for Leave

Eligible employees must be taking Basic FMLA Leave for one of the reasons listed below:

- To care for the employee's child after birth (so long as such leave concludes within 12 months from the date of the child's birth) or the placement for adoption or foster care (so long as such leave concludes within 12 months from the date of the child's placement);
- To care for the employee's spouse, child, or parent with a serious health condition;
- For a serious health condition of the employee that makes the employee unable to perform the functions of his/her job; and
- For specific exigent circumstances arising when an employee's spouse, child or parent is on active military duty, or is called to active military duty. "Exigent circumstances" are defined by FMLA and include, by example, attending certain military events, arranging for alternative childcare, addressing certain legal and financial arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligible employees must be taking Military Caregiver FMLA Leave to care for a covered servicemember (as defined by FMLA) who is the employee's spouse, child, parent, or other next-of-kin, and who has a serious injury or illness.

A "serious health condition" is defined by the FMLA and includes an illness, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the function of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

A "serious injury or illness," in the case a covered servicemember, is defined by FMLA and includes an injury or illness that incurred in the line of active duty that may render the person medically unfit to perform the duties of the person's office, grade, rank or rating.

### 3. Period of Leave

An eligible employee is entitled to take up to 12 weeks of Basic FMLA Leave in a 12-month period. For purposes of calculating such 12-month period, the period shall be measured based on a "rolling" 12-month period measured backward from the date an employee uses any Basic FMLA Leave.

An eligible employee is entitled to take up to 26 weeks of Military Caregiver FMLA Leave during a "single 12-month period." The "single 12-month period" for Military Caregiver FMLA Leave is measured forward from the date on which an employee first begins Military Caregiver FMLA Leave and ends 12 months after that date.

During each single 12-month period, an eligible employee is limited to a combined total of 26 weeks of Basic FMLA Leave and Military Caregiver FMLA Leave, of which no more than 12 weeks may be attributable to Basic FMLA Leave.

In certain instances, spouses who are both employed by the District may be entitled to only an aggregate total of 12 or 26 weeks of leave under this policy, as applicable.

### 4. Procedure for Requesting Leave

When such leave is foreseeable, the employee shall notify the District of his/her request for leave under FMLA at least 30 days prior to the date when the leave is to begin. If such leave is not foreseeable, then notice shall be given as early as is practical.

Employees must provide sufficient information in order for the District to determine if the requested leave qualifies under FMLA, and the anticipated timing and duration of such leave. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### 5. Notification of Eligibility & Designation of FMLA Leave

Absent extenuating circumstances, the District will notify an employee in writing of his/her eligibility for leave under FMLA within five business days after the employee submits

his/her request for leave, or after the District is otherwise aware of the employee's need for such leave. Such notice will specify any additional information required as well as the employee's rights and responsibilities while on leave. If the District determines that an employee is not eligible for leave under FMLA, the District will notify the employee and provide a reason for the ineligibility.

The District also will inform an employee if his/her leave will be designated as FMLA leave and the amount of leave counted against the employee's FMLA leave entitlement. If the District determines that the requested leave is not FMLA leave, the District will notify the employee and provide a reason.

6. Use of Accrued Paid Leave

An employee may use, or the District may require an employee to use accrued paid vacation, personal, medical/sick, family leave and/or any other accrued paid leave while taking Basic FMLA Leave and/or Military Caregiver FMLA Leave, but only to the extent consistent with any applicable collective bargaining agreement or other applicable paid leave policy.

7. Maintenance of Health Insurance Benefits

While the employee is on FMLA leave, the District will continue the employee's health insurance coverage under any group health plan on the same terms as if the employee had continued to be at work during the leave period.

If an instructional employee is on FMLA leave at the end of a school year, the District will continue such employee's health insurance coverage over the summer on the same terms as if the employee had been working at the end of the school year.

8. Intermittent Leave

In certain circumstances, FMLA leave may be taken intermittently or on a reduced schedule basis, rather than in one block. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

An eligible employee may use intermittent or reduced schedule leave:

- Because of the employee's own serious health condition, to care for a parent or child with a serious health condition, or for Military Caregiver FMLA Leave if there is a medical need for such leave and such medical need can be best accommodated through leave on an intermittent or reduced schedule basis; or
- For Basic FMLA Leave due to exigent circumstances arising when an employee's spouse, child or parent is on active military duty, or is called to active military duty.

An eligible employee may take intermittent leave or reduced schedule leave after the birth or placement of a healthy child, only if the District agrees. Special rules apply if an instructional employee desires to take intermittent or reduced schedule leave.

Employees requesting intermittent or reduced schedule leave must attempt to schedule their leave so as not to disrupt the District's operations. The District may, in certain circumstances, assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

#### 9. Return from Leave

Except as otherwise provided by FMLA, an employee who takes leave under FMLA will be able to return to the same job or a job with equivalent pay, benefits and other employment terms. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of such leave.

In addition, special rules apply if an instructional employee desires to take FMLA leave near the end of an academic term.

Prior to returning from FMLA leave, the District may require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition.

Failure to return from any leave may result in the employee's termination.

#### 10. Enforcement

FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA, or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under FMLA. FMLA does not affect any Federal or State law prohibiting discrimination. An employee who disagrees with any determination by the District regarding a request for leave under FMLA, or who believes that he or she has been retaliated against for requesting or taking FMLA leave, may file a complaint with the U.S. Department of Labor or commence a private lawsuit.

#### 11. Notice of Policy

The District shall post a notice prepared or approved by the Secretary of Labor stating the pertinent provisions of FMLA, including information concerning enforcement of the law. A copy of Board Policy No. 9520.2 shall be distributed to current employees and to each new employee upon hire.

Adoption Date: April 7, 2003

Amended: June 8, 2009