

**401.11R1 Family and Medical Leave - Administrative Regulations****A. School District Notice**

- a. The school district will post the notice in this series regarding family and medical leave.
- b. 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 available online..
- c. 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 will include:
  - i. 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;
  - ii. a reminder that employees requesting family and medical leave for their 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;
  - iii. an explanation of the employee's right to run concurrently applicable 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; and
  - iv. 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.

**B. Eligible Employees**

- a. Employees are eligible for family and medical leave if the following criteria are met:
  - i. The employee has worked for the school district for at least twelve (12) months or fifty-two (52) weeks (the months and weeks need not be consecutive); and
  - ii. 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.

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

C. Employee Requesting Leave (two types of leave)

a. Foreseeable family and medical leave

- i. Definition - leave is foreseeable for the birth or placement of an adopted or foster child with the employee or for planned medical treatment.
- ii. Employee must give at least thirty (30) days notice for foreseeable leave. Failure to give the notice may result in the leave beginning thirty (30) days after notice was received. For those taking leave due to military family and medical leave, notice should be given as soon as possible.
- iii. Employees must consult with the school district prior to scheduling planned medical treatment leave to minimize disruption to the school district. The scheduling is subject to the approval of the health care provider.

b. Unforeseeable family and medical leave.

- i. Definition - leave is unforeseeable in such situations as emergency medical treatment or premature birth.
- ii. Employee must give notice as soon as possible but no later than one to two work days after learning that leave will be necessary.
- iii. A spouse or family member may give the notice if the employee is unable to personally give notice.

D. Eligible Family and Medical Leave Determination

a. The following is a list of the acceptable purposes for family or medical leave:

- i. 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;
- ii. 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;
- iii. To care for the spouse, son, daughter or parent of the employee if the spouse, son, daughter or parent has a serious health condition;
- iv. The employee's serious health condition that makes the employee unable to perform the essential functions of the employee's position;
- v. Because of a qualifying exigency arising out of the fact that an employee's spouse, son, daughter or parent is on active duty or called

- to active duty status in support of a contingency operation as a member of the National Guard or Reserves; or
- vi. 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.
- b. The school district may require the employee giving notice of the need for leave to provide reasonable documentation or a statement of family relationship.
- c. Medical certification.
  - i. When required:
    - 1. Employees shall be required to present medical certification of the employee's serious health condition and inability to perform the essential functions of the job;
    - 2. 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; and/or
    - 3. Employees may be required to present certification of the call to active duty when taking military family and medical leave.
  - ii. Employee's medical certification responsibilities:
    - 1. The employee must obtain the certification from the health care provider who is treating the individual with the serious health condition.
    - 2. 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 school district has reason to doubt the validity of the certification an employee submits. The second health care provider cannot, however, be employed by the school district on a regular basis.
    - 3. If the second health care provider disagrees with the first health care provider, then 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 school district. This certification or lack of certification is binding upon both the employee and the school district.
  - iii. Medical certification will be required fifteen (15) days after family and medical leave begins unless it is impracticable to do so. The school district may request recertification every thirty (30) days.

Recertification must be submitted within fifteen (15) days of the school district's request.

- iv. 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.
- v. 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 will be denied until such certification is provided.
- vi. An employee who fails to complete and return all necessary Family and Medical Leave Act documentation may have the leave designated by administration as approved family and medical leave, provided the leave is such that would be covered as approved family and medical leave.

E. Entitlement.

- a. Employees are entitled to twelve (12) 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 (26) weeks of unpaid family and medical leave but only in a single twelve (12) month period.
- b. Year is defined as a "rolling" twelve (12) month period measured backward from the date of any FMLA leave usage.
- c. If insufficient leave is available, the school district may:
  - i. Deny the leave if entitlement is exhausted;
  - ii. Award leave available; and/or
  - iii. Award leave in accordance with other provisions of board policy or a collective bargaining agreement.

F. Type of Leave Requested.

- a. Continuous - employee will not report to work for set number of days or weeks.
- b. Intermittent - employee requests family and medical leave for separate periods of time.
  - i. Intermittent family and medical leave is available for:
    - 1. the birth or adoption of the employee's child or foster care placement subject to agreement by the school district;
    - 2. the employee or the employee's parent or child, when medically necessary, is suffering from a serious health condition;

3. a qualifying exigency arising out of the fact that the employee's spouse, the employee's son or daughter or the employee's parent is on active duty or called to active duty status in support of a contingency operation as a member of the National Guard or Reserves; and/or
    4. the employee is the spouse, son or daughter, parent or next of kin of a covered service member with a serious injury or illness.
  - ii. In the case of foreseeable intermittent leave, the employee must schedule the leave to minimize disruption to the school district operation.
  - iii. During the period of foreseeable intermittent leave, the school district may move the employee to an alternative position with equivalent pay and benefits. For instructional employees, see G below.
- c. Reduced work schedule - employee requests a reduction in the employee's regular work schedule.
  - i. Reduced work schedule family and medical leave is available for:
    1. the birth or adoption of the employee's child or foster care placement subject to agreement by the school district;
    2. the employee or the employee's parent or child, when medically necessary, is suffering from a serious health condition;
    3. a qualifying exigency arising out of the fact that the employee's spouse, the employee's son or daughter or the employee's parent is on active duty or called to active duty status in support of a contingency operation as a member of the National Guard or Reserves; and/or
  - ii. the employee is the spouse, son or daughter, parent or next of kin of a covered service member with a serious injury or illness.
  - iii. In the case of foreseeable reduced work schedule leave, the employee must schedule the leave to minimize disruption to the school district operation.
  - iv. During the period of foreseeable reduced work schedule leave, the school district may move the employee to an alternative position with equivalent pay and benefits. For instructional employees, see G below.

G. Special Rules for Instructional Employees.

- a. Definition - an instructional employee is one whose principal function is to teach and instruct students in a class, a small group or an individual setting.

This includes, but is not limited to, teachers, coaches, driver's education instructors and special education assistants.

- b. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule family and medical leave greater than twenty percent (20%) of the work days in the leave period may be required to:
  - i. Take leave for the entire period or periods of the planned medical treatment; or
  - ii. Move to an available alternative position, with equivalent pay and benefits, but not necessarily equivalent duties, for which the employee is qualified.
- c. 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.
  - i. If an instructional employee begins family and medical leave for any purpose more than five weeks before the end of a semester, the school 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.
  - ii. 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 school 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.
  - iii. 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 school district may require the employee to continue taking leave until the end of the semester.
- d. The entire period of leave taken under the special rules is credited as family and medical leave. The school 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.

H. Employee responsibilities while on family and medical leave.

- a. The 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 while on FMLA leave.
- b. The employee's contribution payments will be deducted from any money owed to the employee or the employee will reimburse the school district by delivery of cash or check to the school district's business office by the first day of the month in which premiums are due to the carrier.
- c. An employee who fails to make the health care contribution payments within thirty (30) days after they are due will be notified that their coverage may be canceled if payment is not received within an additional fifteen (15) days.
- d. An employee may be asked to re-certify the medical necessity of family and medical leave for the serious medical condition of an employee or family member once every thirty (30) days and return the certification within fifteen (15) days of the request.
- e. The employee must notify the school district of the employee's intent to return to work at least once each month during their leave and at least two (2) weeks prior to the conclusion of the family and medical leave.
- f. If an employee intends not to return to work, the employee must immediately notify the school district, in writing, of the employee's intent not to return. The school district will cease benefits upon receipt of this notification.

I. Use of paid leave for family and medical leave.

- a. The school district will require their unpaid family and medical leave run concurrently with applicable paid leave available to the employee under board policy, individual contracts or collective bargaining agreements, as outlined in the family and medical leave administrative rules. When the school district determines that paid leave is being taken for a FMLA reason, the school district will notify the employee within two (2) business days that the paid leave will be counted as FMLA leave.
- b. The school district will require to run concurrently paid sick and/or personal leave with unpaid FMLA leave for the serious health condition of the employee only. Upon the expiration of paid leave, the FMLA leave for the serious health condition of the employee is unpaid.
- c. The school district will require to run concurrently paid family sick leave and personal leave with unpaid FMLA leave for the serious health condition of an employee's family member. Upon the expiration of paid leave, the FMLA leave for the serious health condition of an employee's family member is unpaid.

- d. The school district will require to run concurrently paid sick leave/family illness leave with their unpaid FMLA leave for the birth of their child as follows: a mother may run concurrently her available paid sick leave for so long as her health care provider certifies that she is unable to perform the essential functions of her job/has a serious health condition; a mother may run concurrently her available paid family illness leave for so long as a health care provider certifies that her newborn infant has a serious health condition; and a spouse may run concurrently his/her available paid family illness leave for so long as a healthcare provider certifies that the employee is needed to care for the mother who has a serious health condition or child who has a serious health condition. Upon the expiration of paid leave, the FMLA leave for the birth of a child or for the placement of a child for adoption or foster care is unpaid.
- e. The school district will require to run concurrently available paid personal leave with their unpaid FMLA leave for the birth of their child or for placement with the employee of a child for adoption or foster care. Upon the expiration of paid leave, the FMLA leave for the birth of a child or for the placement of a child for adoption or foster care is unpaid.