

## FAMILY MEDICAL LEAVE

### Eligibility

An employee who has worked for the District for at least twelve months is eligible for twelve work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave. An employee may be eligible for 26 work weeks of FMLA leave during a 12-month period to care for a covered service member with a serious injury or illness.

Fairfield City Schools calculates available leave time for any employee requesting family or medical leave by first determining how much family and medical leave the employee has taken in the immediately preceding 12 months, then subtracting that time from the maximum allowable twelve weeks. In other words, an employee may use no more than twelve weeks of family and medical leave in any twelve-month period.

### Types of Leave

An eligible employee may take FMLA leave for the following purposes:

1. birth and care of a newborn child;
2. placement with an employee of a son or daughter for adoption or foster care;
3. care for a spouse, child, parent with a serious health condition. An employee may not take FMLA leave to care for a parent-in-law;
4. recovery from a serious health condition that keeps the employee from performing the essential functions of his/her job.
5. to respond to a “qualifying exigency” that arises because a spouse, child or parent is on active duty or has been called to covered active duty as a member of the Armed Forces or
6. to care for a spouse, child, parent or next of kin who is or was a member of the Armed Forces and who is currently undergoing medical treatment, recuperation or therapy for either a serious illness or injury that was incurred in the line of duty or for a serious illness or injury that existed before the beginning of active duty and was aggravated by service in the line of duty. In order to be eligible, veterans must have been members of the Armed Forces within five years of receiving such treatment.

An employee may elect, or the Board may require an employee, to use accrued paid vacation, personal or sick leave for purposes of a family leave. An employer cannot compel an employee to use accrued medical/sick leave in any situation for which the leave could not normally be used.

### Spouses Employed by the District

If a husband and wife eligible for leave are both employed by the District, their combined amount of leave under FMLA is limited to 12 weeks during any 12-month period.

If a husband and wife eligible for leave are employed by the District, their combined amount of leave to care for a covered service member is limited to 26 weeks.

### Intermittent and Reduced Leave

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury.

Reduced leave is a leave schedule that reduces employee's usual number of hours per work week or hours per work day.

Intermittent or reduced leave is available for the employee's own serious health condition; to care for a seriously ill spouse, child or parent; to care for a covered service member's serious injury or illness or for leave taken due to a qualifying exigency. Such leave may *not* be used for the birth or adoption/placement of a child only if the Board agrees.

If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the employer's operations.

The Board may provide such leave for medical purposes, but the Superintendent may transfer the employee to a position which is equivalent, but more suitable for intermittent periods of leave. The employee must furnish the Board with the expected dates of the planned medical treatment and the duration of the treatment. The Superintendent must authorize such leave in writing.

### Benefits

The District will maintain the employee's health coverage under the District's group health benefit plan during the period of FMLA leave. Prior to the beginning of the FMLA leave, the employee should make arrangements with the Treasurer to pay the employee's share of health insurance (e.g., family coverage)

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or other employment benefits during the unpaid leave period except as provided by negotiated collective bargaining agreement. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

### Notice

When the FMLA leave is foreseeable, the employee must notify the District of the request for leave at least 30 days prior to the date when the leave is to begin. If the leave is not foreseeable,

the employee must give notice as early as is practical. When the employee requests pre-scheduled medical leave, the employee must make reasonable attempts to schedule treatment so as not to disrupt the District's operations.

The Board may deny the leave if the employee does not meet the notice requirements.

### Certification

The Board may require the employee to provide certification and/or recertification from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification a second, and, if necessary, a third opinion can be required both at the expense of the District. The third opinion shall be final and binding on the District and the employee.

Upon the employee's return to work, the District will require that the employee present a fitness statement from the employee's health care provider certifying that the employee is able to return to work.

### Restoration

When the employee returns from leave, the Board will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment in accordance with Board policy and any applicable negotiated collective bargaining agreement.

Under certain circumstances, the Board may deny restoration to a key employee. The District will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the District to experience a substantial and grievous economic injury

### Instructional Employees

Special leave rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach or tutor students in a classroom, small group or individual setting. This term includes teachers, tutors, athletic coaches and special education assistants such as signers for the hearing impaired. It does not include educational assistants who do not have as their principal job actual teaching or tutoring, nor does it include nurses, counselors, psychologists or curriculum specialists. . It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is:

1. to care for a family member, to care for a covered service member or for the employee's own serious health condition;
2. is foreseeable based on planned medical treatment and

3. the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend,

The Board may require the employee to choose either to:

1. take the leave and be off work completely for a period or periods of a particular duration, not greater than the planned treatment or
2. transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.

The following limitations also apply to instructional employees who take leave near the end of an academic term for purposes other than the employee's own serious health condition.

1. When an instructional employee begins leave more than five weeks before the end of an academic term, the Board may require the employee to continue taking leave until the end of the academic term if the leave will last at least three weeks and the employee would return to work during the three-week period before the end of the academic term.
2. When an instructional employee begins leave less than five weeks before the end of an academic term, the Board may require the employee to continue taking leave until the end of the academic term if the leave will last more than two weeks and the employee would return to work during the two-week period before the end of the academic term.
3. When an instructional employee begins leave less than three weeks before the end of an academic term and the leave will last more than five working days, the Board may require the employee to continue taking leave until the end of the academic term.

In all cases, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the Board is not counted as FMLA leave. However, the Board is required to maintain the employee's group health insurance and restore the employee to the same or equivalent job upon the conclusion of the leave.

#### Failure to return

The Board is entitled to recover health care premiums paid during the leave if the employee fails to return from leave. 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.

(Revised: April 15, 2010)