

**FAMILY MEDICAL LEAVE REGULATIONS/PROCEDURES**

The following guidelines shall be used when an employee requests, or the District determines, an employee is on a leave covered by the Family Medical Leave Act of 1993 ("FMLA" or "family leave"), under the District's policies GCBD and GDBD.

- I. Purpose: FMLA provides eligible employees with up to Twelve Weeks in any Twelve Month Period of unpaid, job-protected leave for the following reasons:
  - A. For incapacity due to pregnancy, prenatal medical care or child birth;
  - B. To care for the employee's child after birth or placement for adoption or foster care.
  - C. To care for the employee's spouse, son or daughter, or parent who has a serious health condition; OR
  - D. For a serious health condition that makes the employee unable to perform the employee's job.
  
- II. Definitions:
  - A. Covered employees ("Employees"): This regulation covers all District employees--union and non-union--who (1) worked for the District for at least 12 consecutive or non-consecutive months and (2) worked for at least 1,250 hours during the year preceding the start of leave.
  - B. Daughter: A biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is either under age 18, or 18 or older and incapable of self-care because of a mental or physical disability.
  - C. Employee's Illness: An Employee must be incapacitated from performing the essential functions of his/her position.
  - D. Intermittent Leave: Leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave periods from an hour to more than several weeks.
  - E. Parent: A biological parent or an individual who stands or stood in loco parentis to an Employee when the Employee was a child. (This does not include parents-in-law.)
  - F. Protected Leave: An Employee is entitled to reinstatement to the same position or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment when returning from family leave.
  - G. Reduced Leave Schedule: A leave schedule that reduces an employee's usual number of working hours per work week, or hours per work day (i.e., reduction from full-time to part-time employment).
  - H. Serious Health Condition: A serious health condition is an illness, injury, 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 functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirements may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

- I. Son: See "daughter."
- J. Spouse: A "spouse" is defined in accordance with the law of the State of New Hampshire.
- K. Twelve Weeks in any Twelve Month Period: The twelve month period shall be determined by using a "rolling 12-month period" measured backward from the date leave is used (i.e., the determination of available family leave will depend on the amount of family leave the employee has taken in the 12 months immediately preceding the requested family leave).

### III. District's Notice and Recordkeeping Requirement:

- A. The Central Office will post and keep posted in conspicuous places throughout the District, a notice explaining the FMLA provisions. (See attached exhibit.)
- B. The District will provide written guidance whenever an Employee requests family leave or the District determines the employee is on a leave covered by the FMLA.
- C. Upon proper receipt of notice from an Employee of the need for family leave or the District determines the employee is on a leave covered by the FMLA, the District will provide the Employee with the following information:
  - 1. That the leave will be counted against annual family leave entitlement;
  - 2. Requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so;
  - 3. The Employee's right to any paid leave and whether the District will require the use of paid leave (e.g., sick leave), and the conditions related to any such paid leave;
  - 4. Any requirement for the Employee to make any premium payment to maintain health benefits during family leave and the arrangements for making such payments;
  - 5. Any requirement for the Employee to present a fitness-for-duty certificate to be restored to employment;
  - 6. The Employee's right to restoration to the same or an equivalent job upon return from leave; and
  - 7. The Employee's potential liability for payment of health insurance

premiums paid by the employer during the employee's family leave if the employee fails to return to work after taking family leave.

D. The District will maintain records as required under sub section 825.500.

IV. Employee's Notice Requirements:

A. Employees who want to take family leave ordinarily must provide the District at least 30 days notice if the need for leave is foreseeable; if the leave is unforeseeable, the Employee should give as much notice as is practical. If an Employee fails to give proper advance notice to the District, the District may deny leave until 30 days after the notice is provided.

B. Medical Certification: Medical certification is required when making a request for family leave for the serious health of a relative or the employee as outlined in Section I C & D. (See attached exhibits, *Certification of Health Care Provider for Employee's Serious Health Condition*, *Medical Certification-Family Member's Serious Health Condition*, *Certification for Serious Injury or Illness of Covered Servicemember*. If the leave is unforeseeable, the Employee must provide medical certification within 15 calendar days.

1. Second Opinion: The District may require, at its own expense, a second opinion from another health care provider.

2. Third Opinion: In situations where first and second opinions differ, the District may request the Employee to obtain a final and binding third opinion from a health care provider jointly agreed to by the District and the Employee, at the District's expense.

3. Recertification: Periodically, the District may request recertification of the serious health condition of the employee or the employee's family member.

C. Notice of intent to return to work: The District may require periodic reports from an Employee regarding their status and intent to return to work. If the Employee gives notice of intent *not to return to work*, the District's obligations to maintain health benefits (except for COBRA) and to restore the Employee cease.

V. Continuation Benefits & Compensation:

A. Paid and unpaid family leave: It is the District's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, based on information provided by the Employee. "Sick Bank" provisions shall not apply to family leave unless otherwise provided by policy or collective bargaining agreement. Employees will be required to use any applicable accrued leave time consistent with the applicable collective bargaining agreement or Board approved leave policy. Such paid leave shall count against the employee's total FMLA leave entitlement.

B. Health Benefits: Employees are entitled to receive health benefits (e.g.,

medical, dental) during the leave at the same level and terms of coverage as if they had been working throughout the leave.

1. The Employee's portion of premium payments must be made at the superintendent's office on or before the close of business on the 25th of each month preceding the effective coverage date; or
  2. The District and the Employee may agree to another payment arrangement such as the prepayment of premiums through the increased payroll deductions prior to the commencement of the family leave.
  3. Under certain circumstances, the District may elect to recover its portion of health benefit costs from an Employee who fails to return to work after the family leave or fails to work 30 calendar days after returning.
- C. Other Benefits: The Employee is not entitled to accrue or receive other benefits (e.g., vacation/sick day accruals, seniority, additional benefits, etc.) unless otherwise provided by District policy or a collective bargaining agreement. Under present conditions, the District intends to maintain for an employee on leave under the act his/her group life and disability insurance benefits at no cost to the employee. However, the District does not guarantee that the carriers will agree to provide life or disability coverage for an employee on leave. If the costs of life or disability insurance coverage for an employee on leave become unreasonable as determined by the Board, then the Board may elect to terminate such benefit to the employee on leave with reasonable notice to the employee such that the employee may elect to maintain and pay for the benefit during the leave.

VI. Intermittent and Reduced Schedule family leave:

- A. An Employee requesting intermittent or reduced schedule family leave will provide the District with a certification from a health care provider indicating that intermittent or reduced leave schedule is medically necessary and complete the Employee Notice of Need for Intermittent Leave or Reduce Work Schedule form (see exhibit) including a description of the expected duration and schedule of such leave. Intermittent and reduced schedule family leave for birth or adoption/foster placement may only be taken with permission of the District.
- B. Employees must attempt to schedule their leaves so as not to disrupt the District's operations. The District may transfer the Employee to an available alternative position with equivalent pay and benefits.

VII. Special Exceptions:

- A. New born or newly-adopted child: Family leave taken to care for a new born or newly-adopted child must be completed within 12 months after the birth or adoption.
- B. Exceptions for Instructional Employees ("Teachers"):

1. A Teacher who requests a period of family leave near the conclusion of the academic term, may be required to continue the leave until the end of the term.
2. Intermittent Leave or Leave on a Reduced Leave Schedule: If a Teacher requests this type of leave to care for a family member or for the Teacher's own serious health condition, and the Teacher would be on leave for more than 20% of the total number of contract days over the period the leave would extend, the District may require the Teacher to elect either to transfer to another position, which better accommodates the recurring periods of leave, or to take leave for a period of periods of a particular duration (i.e., a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed and may include one uninterrupted period of leave) not greater than the duration of the planned treatment.

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