

FAMILY AND MEDICAL LEAVE

The *Family and Medical Leave Act* (FMLA) provides eligible employees the opportunity to take unpaid, job-protected leave for specified family and medical reasons.

ELIGIBILITY

Only eligible employees are entitled to take FMLA leave. To be eligible for FMLA benefits, an employee shall have been employed by the School Board for at least twelve (12) months and have worked at least 1250 hours during the 12-month period immediately preceding the date of the leave to be taken.

LEAVE ENTITLEMENT

Eligible employees may take up to twelve (12) workweeks of unpaid leave in a 12-month period for one or more of the following reasons:

1. For the birth of the employee's son or daughter or for the placement with the employee of a son or daughter for adoption or foster care, and to care for the newborn or newly placed child;
 - A. Leave shall be taken within the twelve (12) months immediately following the birth or placement;
 - B. In cases where both a husband and wife are employed by the School Board and both are eligible for FMLA leave, the husband and wife shall be limited to a combined total of twelve (12) weeks of FMLA leave for the birth or placement and subsequent care;
2. To care for the employee's spouse, son, daughter, or parent with a *serious health condition*;
3. Because of a *serious health condition* that makes the employee unable to perform one or more of the essential functions of his or her job; and
4. Because of any "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty status (or has been notified of an impending call or order to covered active duty).

MILITARY CAREGIVER LEAVE

Eligible employees who are the spouse, child, parent, or next of kin of a covered service member are also entitled to up to fourteen (14) workweeks of additional unpaid leave during a single 12-month period (for a total of twenty-six (26) weeks if combined with other FMLA leave) to care for a covered service member who is undergoing medical treatment,

recuperation or therapy, is in outpatient status, or is on the temporary disability retired list, for a qualifying *serious injury or illness*. In cases where both a husband and wife are employed by the Central Community School Board and both are eligible for FMLA leave, the husband and wife shall be limited to a combined total of twenty-six (26) weeks of FMLA military caregiver leave.

IDENTIFYING THE 12-MONTH PERIOD

The 12-month period within which the employee may take his/her FMLA leave begins and is measured forward from the first date the employee takes FMLA leave. The next 12-month period would not begin until the next time FMLA leave is taken after completion of the prior 12-month period.

INTERMITTENT LEAVE OR REDUCED LEAVE SCHEDULE

Generally, the time taken for FMLA leave shall be on a continuous basis. Under some circumstances, however, employees may take FMLA leave on an intermittent or reduced basis. In such instances, the 12-month period begins on the first day leave is taken.

Employees may be permitted to take FMLA leave on an intermittent or reduced basis to care for a covered family member with a *serious health condition* or for the employee's own *serious health condition* when medically necessary. An employee may take intermittent leave for the birth or placement of a child only with School Board approval.

In any case in which an instructional employee requests intermittent FMLA leave that is foreseeable based on planned medical treatment and the employee would be on leave for more than twenty percent (20%) of the total number of working days in the period during which the leave would extend, the employee may be required to take leave for periods not to exceed the particular duration of the planned medical treatment or to temporarily transfer to an alternative position for which the employee is qualified and which would be less disruptive to the classroom.

ADVANCE NOTICE

Employees shall comply with the School Board's policies and pertinent administrative procedures for all leave requests and provide enough information for the School Board to reasonably determine whether the FMLA may apply to the leave request. In any case in which the need for leave is foreseeable, the employee shall provide the School Board with at least thirty (30) days notice before the date the leave is to begin. When the need for leave is foreseeable less than thirty (30) days in advance or is unforeseeable, employees shall provide notice as soon as possible.

When the need for leave is for the birth or placement of the employee's child and/or subsequent care and said need for leave is foreseeable based on the expected birth or placement, the employee shall provide the School Board with at least thirty (30) days notice before the date the leave is to begin. If the date of birth or placement requires the

leave to begin in less than thirty (30) days, then notice shall be provided as soon as possible.

In any case in which FMLA leave is requested for planned medical treatment, the employee shall consult with the School Board and make a reasonable effort to schedule treatment so as not to unduly disrupt school operations.

SUBSTITUTION OF PAID LEAVE

Employees shall be required to substitute any applicable, accumulated paid leave, such as sick and/or annual leave, to concurrently cover any part or all of the twelve (12) week period of FMLA leave time requested. Any leave granted an employee under extended sick leave, medical sabbatical leave or maternity leave shall also run concurrently with any FMLA leave available to an employee under this policy. If paid leave is used by an employee, the School Board shall provide only enough unpaid FMLA leave time to total the allowed twelve (12) week period.

CERTIFICATION

The School Board may require an employee to submit medical certification from a health care provider to support requests for FMLA leave to care for a covered family member with a *serious health condition* or for the employee's own *serious health condition*. The employee is responsible for providing a complete and sufficient medical certification within fifteen (15) calendar days of the School Board's request for same. Information on the certification shall include, but not be limited to, the following:

1. Contact and practice/specialization information of the health care provider;
2. The approximate date on which the *serious health condition* commenced and its probable duration;
3. A statement or description of appropriate medical facts regarding the patient's health condition sufficient to support the need for FMLA leave;
4. For purposes of leave for the employee's own *serious health condition*, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability;
5. For purposes of leave to care for a covered family member's *serious health condition*, information sufficient to establish that the family member is in need of care, that the employee is needed to care for the family member, and an estimate of the frequency and duration of the leave required to care for the family member;
6. For purposes of leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's *serious health*

condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;

7. For purposes of leave on an intermittent or reduced schedule basis for the employee's *serious health condition*, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and
8. For purposes of leave on an intermittent or reduced schedule basis to care for a covered family member with a *serious health condition*, a statement that such leave is medically necessary to care for the family member, and an estimate of the frequency and duration of the required leave.

Consistent with School Board policies, employees on FMLA leave due to a *serious health condition* may be expected to keep their supervisors notified of their progress and anticipated date of return. Employees shall be required to submit a recertification from their physician on the required form once every thirty (30) days, except under certain circumstances set forth in the FMLA.

The School Board may also require that an employee's request for "qualifying exigency" leave or that leave requested to care for a covered service member be supported by appropriate certification.

FITNESS FOR DUTY AND RETURN TO WORK

An employee returning from FMLA leave due to a *serious health condition* shall be required to provide to the School Board certification from his/her health care provider that he/she is able to resume work and perform the essential functions of his/her job.

An employee returning from FMLA leave shall have the right to be restored to his/her previous position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, except that the School Board may not be obligated to restore certain "highly compensated" or "key" employees to their former positions under the conditions set out in the FMLA.

DEFINITIONS

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- a period of incapacity requiring absence of more than three (3) calendar days from

work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or

- any period of incapacity due to pregnancy, or for prenatal care; or
- any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- a period of incapacity that is permanent or long term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
- any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

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Ref: 29 USCA 2601 et seq. (*The Family and Medical Leave Act of 1993*); 29 CFR 825 et seq. (*The Family and Medical Leave Act of 1993–Federal Regulations*).