

11.5 Family and Medical Leave Act Procedures

Application for Leave:

An employee requesting FMLA leave must provide a written request which states the reason for the leave, the duration of the leave, and the starting and ending dates of the leave. This request must be submitted at least thirty (30) days before FMLA leave due to the expected birth or placement of a child, or because planned medical treatment is to begin. If, for reasons beyond the employee's reasonable control, the leave is to begin in less than 30 days, an employee must give notice to his/her immediate supervisor and to the department of Human Resources as soon as is practicable. In the absence of a written request from the eligible employee the district may, in its discretion, place an eligible employee on FMLA leave if the employee is absent for any of the statutory reasons.

Leave Based on a Serious Health Condition:

A medical certification statement must accompany an employee request for leave based on the serious health condition of the employee or the employee's spouse, child or parent. This statement must be completed by the applicable healthcare provider. It must state the date on which the health condition began, the estimated duration of the condition and the relevant medical facts related to the condition. If the employee has a serious health condition the certification must state that the employee cannot perform the functions of his/her position. Likewise, when the employee is prepared to return to work he or she must provide certification by his or her healthcare provider that the employee is able to resume work. The district reserves the right to require the employee to obtain a second medical opinion at the district's expense. If the opinions of the first and second healthcare provider differ, the district may require a third opinion from a healthcare provider mutually agreed upon by the district and the employee. The third opinion shall be final and binding.

The district may require subsequent certifications to support FMLA leave but not more often than every 30 days unless the employee requests an extension of leave, changed circumstances occur regarding the illness or injury, or the district receives information that casts doubt on the validity of an existing certification. In the event the employee is applying for leave to care for a spouse, child or parent, the certification must state that fact along with an estimate of the amount of time the employee will be needed.

Intermittent Leave or Leave on a Reduced Leave Schedule:

An employee may request to use available leave intermittently or on a reduced schedule. The request for leave must be supported with a certification from the healthcare provider that such leave is medically necessary and which states the expected duration and schedule of such leave. There must be a medical need for the leave and evidence that the medical need can best be accommodated through an intermittent or reduced schedule. The employee must try to schedule the leave so as not to unduly disrupt the district's operations. The district reserves the right to place the employee in an alternative position which better accommodates intermittent or reduced leave.

When an instructional employee requests intermittent or reduced leave for planned medical treatment for more than twenty percent (20%) of the total number of working days in the period during which the leave would be used, the District may require the employee to elect either to (1) take leave for a “particular duration” or time which is not greater than the duration of the planned treatment, or (2) be transferred to an alternative position. If the instructional employee requesting intermittent leave or leave on a reduced leave schedule does not give proper notice as required the District may deny the taking of leave until thirty (30) days after notice was provided, or may require the employee to take leave for either a “particular duration” or accept an alternative position.

Leave Taken Near the End of an Academic Term:

If an instructional employee begins any type of covered leave more than 5 weeks before the end of a term, and if the leave will last at least 3 weeks and the employee would otherwise return to work during the 3 weeks before the end of the term, the District may require the employee to continue taking leave until the end of the term.

If an instructional employee takes leave for a reason other than the employee’s own serious health condition which commences during the 5 weeks before the end of the term, and if the leave will last more than 2 weeks and the employee would otherwise return to work during the last 2 weeks of the term, the District may require the employee to continue taking leave until the end of the term.

If an instructional employee takes leave for a reason other than the employee’s own serious health condition which begins during the last 3 weeks of the term, and if the leave will last more than 5 working days, the District may require the employee to take leave until the end of the term.

The word “term” means the first term or Fall semester term of each academic year and the second term or Spring semester term of each academic year.

Effect of Leave on Benefits

During a period of family or medical leave, an employee will be retained on the District’s medical insurance plan under the same conditions that applied before leave began. In order to continue medical insurance coverage the employee must continue to make any contributions that he or she made to the plan before leave. Failure of the employee to pay his or her share of the medical insurance premium may result in a loss of coverage. The employee is required to pay all of the premiums for any other type of insurance coverage which may exist.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the District for payment of health insurance premiums during the family or medical leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or to circumstances beyond the employee’s control.

The employee may not accrue any seniority or employment benefits that would have accrued if not for the taking of the leave. However, the employee who takes family or medical leave will not lose any seniority or employment benefits that accrued before the date leave began.

Coordination of FMLA and Paid Sick Leave

The portion of FMLA leave for which paid sick leave can be taken is limited to the duration of the physician certified medical disability. In the case of the birth or adoption of a child, any remaining FMLA leave remaining after the physician certified medical disability has expired will be unpaid. Employees with medical disabilities commencing during non-contract periods (i.e., Christmas, Spring Break, summer, etc) will be paid sick leave only for the portion of the medical disability which overlaps with the employee's contract days.

The physician originally certifying the disability which necessitates the medical leave of absence must be the physician who provides ongoing documentation of the need for a continuing medical absence unless he/she has made a referral to another physician.

Reinstatement to Former Position:

An employee generally is entitled to be restored to an equivalent position and to equivalent conditions of employment. This may not be applicable to employees who are designated as "highly compensated employees." The District cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by the District. A highly compensated employee is one who is salaried and is "among the highest paid 10%" of the employees employed within 75 miles of the employee's worksite. An employee who qualifies as a "highly compensated" employee may be denied restoration to employment if necessary to prevent substantial and grievous economic injury to the operations of the District.

An employee who is ready to return from leave must provide notification to the district before he or she can be returned to work. An employee may return to work before the expiration of a family or medical leave of absence. If the leave was due to the employee's own medical condition, the employee's physician must release the employee to full duty before the employee will be allowed to return to work. The employee must give the District 5 working days notice prior to the planned return.

Failure to Return From Leave:

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. Any termination as a result of this provision is subject to the same rights as a termination for cause. An employee who requests an extension of family leave or medical leave due to the continuance, recurrence or onset of her or his own serious health condition, or the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the employee's immediate supervisor with a copy to the Department of Human Resources. This written request should be made

as soon as the employee realizes that she or he will not be able to return at the expiration of the leave period.

Interpretation of Act:

The District intends to remain faithful to the requirements of the Act. Questions regarding the interpretation, administration, and application of the Act to eligible employees shall be resolved by reliance on the FMLA and its interpretive regulations. Where relevant, the District will also consider its policies, rules, practices and negotiated agreements.

Approved Board of Education, July 22, 2002