



Book	Policy Manual
Section	ALL EMPLOYEES
Title	Family and Medical Leave
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### **Authority**

Family and Medical Leave shall be provided in accordance with applicable law under the Family and Medical Leave Act (hereinafter "FMLA"). Nothing in this policy shall be construed contrary to the provisions of applicable law. To the extent that applicable law and this policy conflict, applicable law shall control.[\[1\]](#)

### **Eligible Employees**

Only eligible employees are entitled to FMLA leave. An eligible employee is an employee who has satisfied each of the following conditions:

1. Has been employed by the District for at least twelve (12) months, which need not have been consecutive, prior to the commencement of the leave.
2. Has worked for the District for at least 1,250 hours over the twelve (12) month period immediately prior to the commencement of the leave.
3. Has worked at a location within seventy-five (75) miles of which the District employs at least fifty (50) employees.

### **Reasons for Leave**

The District will grant FMLA leave only for one of the following reasons:

1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
2. Because of the placement of a son or daughter with the employee for adoption or foster care.
3. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
5. Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

### **Length of Leave and Expiration of Leave Entitlement**

A year for purposes of this policy shall be based on a twelve (12) month look back year in accordance with applicable law.

1. Subject to the terms, conditions and limitations contained in the FMLA and except for Service member family leave, an eligible employee is entitled to a maximum of twelve (12) weeks of leave in a year, as defined by applicable law.
2. The entitlement to leave under subparagraphs (A) and (B) above for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.
3. Service member family leave.
  - a. Subject to section 2613 of the FMLA, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a maximum total of twenty-six (26) workweeks of leave during a 12-month period to care for the service member. The leave described in this paragraph shall only be available during a single 12-month period and shall not be entitled to more than twenty-six (26) weeks in a single 12-month period even if the employee otherwise qualifies for an FMLA leave. The combined leave total provisions of the FMLA shall apply.

Spouses employed by the District are limited to:

1. In general

In any case in which a husband and wife entitled to leave under FMLA are employed by the School District, the aggregate number of workweeks of leave to which both may be entitled are limited to twelve (12) workweeks during any 12-month period, if such leave is taken for the birth or placement of a child or to care for a sick parent.

2. Service member family leave

In general

The aggregate number of workweeks of leave to which both that husband and wife may be entitled under subsection (a) of this section shall be limited to twenty-six (26) workweeks during the single 12-month period when leave is for Service member family leave.

#### Benefits During Leave

FMLA leave is unpaid leave. However, whenever group health insurance is provided to an employee before the employee takes FMLA leave, the District will maintain the employee's health coverage under any group health plan during the leave on the same terms as if the employee continued to work.

1. If an employee fails to return to work at the conclusion of the employee's FMLA leave, the District will recover from the employee amounts it paid for health insurance for the employee during the leave. However, the District will not recover amounts paid for health insurance for an employee during FMLA leave if the employee fails to return to work because of a serious health condition of the employee, the employee's spouse, child or parent, or if the employee fails to return for other reasons beyond the employee's control. If an employee fails to return to work because of a serious health condition, the District will require the employee to provide medical certification of the condition within thirty (30) days of the District's request for such certification.
2. Where FMLA leave is substituted paid leave, the employee's share group health plan premiums will be paid by the method normally used during paid leave.
3. Where FMLA leave is unpaid, the employee's share of group health plan premiums will be paid to the District. Employee payments must be made when payments would be made under COBRA. In the event an employee's payment is not made within thirty (30) days of the date on which it is due, the District will maintain health coverage by paying the employee's share and will recover amounts so paid from the employee.

#### Reinstatement After Leave

At the conclusion of FMLA leave, the employees will be restored to their original positions or equivalent positions with equivalent pay, benefits and other employment terms as if they had not taken such leave, unless they are denied reinstatements because they are key employees. However, the employee has no greater right to reinstatement or other benefits or conditions of employment than if the employee had been continuously employed during the leave period.

## Limitations on Leave

Intermittent leave or a reduced leave schedule may be taken for a serious health condition where this is medically necessary.

Intermittent leave or a reduced leave schedule may not be taken for the birth of a child or for placement of a child for adoption or foster care.

When intermittent leave or leave on a reduced leave schedule is requested based on planned medical treatment, the District may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position. Alternatively, the District may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay, but need not have equivalent duties.

When FMLA is needed to care for a family member or for the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

## Use of Intermittent Leave or Reduced Leave Schedule

If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule based on foreseeable planned medical treatment, and if the employee would be on leave for more than twenty percent (20%) of the total number of working days over the period of the leave, then the employer may require the employee to choose either (a) to take leave for a period or periods not greater than the duration of the planned treatment; or (b) to 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.

## Application for Leave

Employees must give thirty (30) days' notice of their need for FMLA leave where the need for the leave is foreseeable, or such notice as is practicable under the circumstances.

If notice is not given as required, the District may delay the leave until at least thirty (30) days after the employee gives notice of the need for FMLA leave.

The employee must provide periodic reports during FMLA leave regarding the employee's status and intent to return to work.

## Substitution Of Paid Leave for FMLA Leave/Concurrent Running of FMLA Leave and Paid Leave

Whenever an employee takes a leave of absence for any purpose, whether that leave is paid or unpaid, if the leave qualifies for an FMLA leave under applicable law, the leave will be designated as such and the FMLA leave will run concurrently with any other leave to which the employee is entitled. For example, and without limiting the generality of the foregoing rules, FMLA will run concurrently with:

1. Accrued paid vacation, personal/conditional, emergency, or medical/sick leave for FMLA leave for the employee's serious health condition.
2. Accrued paid vacation, personal/conditional, emergency, medical/sick or family leave for FMLA leave for the serious health condition of a spouse, child or parent.
3. Accrued paid vacation, personal/conditional, emergency, child-rearing leave, or family leave for leave for the birth, adoption, or placement in foster care of a child.
4. An employee may not require the District to provide paid family or medical/sick leave under the FMLA in circumstances where applicable law does not mandate it.

Paid leave taken by an employee will be designated FMLA leave by the District if it is taken for an FMLA-qualifying purpose, regardless whether the employee has specifically asked for FMLA.

The District will designate an employee's use of paid leave as FMLA leave based on information from the employee.

## Certification of Serious Health Conditions

Employees must provide medical certification supporting the need for leave due to a serious health condition of the employee or an immediate family member on a form to be provided by the District.

At the request of the district, employees must provide second and, where the first and second opinions differ, third medical opinions regarding the need for leave due to a serious health condition. Second and third opinions will be at the expense of the District. The District will deny leave until the required certification is supplied.

Employees must provide recertification of medical conditions every thirty (30) days, or more frequently at the discretion of the District, as allowed by the FMLA.

#### Notice To Employees Of Rights And Obligations

The District will post a notice, as required by the FMLA, explaining the provisions of the FMLA.

The District will maintain a policy intended to comply with the FMLA.

When an employee gives notice of the employee's need for FMLA leave, or for a leave that qualifies for FMLA leave, the District will inform the employee of the employee's rights and obligations under the FMLA, including any obligation the employee may have to make contributions toward benefits, and of what may happen if the employee fails to meet those obligations.

#### Maintenance of Records

The District will comply with the record-keeping requirements of the FMLA.

#### Discretion

Except as set forth in this policy, the District reserves the right to exercise all discretion afforded it, pursuant to the FMLA.

#### Definitions

To the extent that this policy employs terms which are defined in the FMLA or in the regulations interpreting it, those definitions are incorporated into this policy.

#### Compliance

This policy is intended to comply with the requirements of the FMLA. To the extent that it fails to do so, the provisions of the FMLA shall prevail.

SUPERSEDES: Policy No. 335, Family & Medical Leave (Administrative Employees and Policy No. 535, Family & Medical Leave (Support Employees)

#### **DISCLAIMERS:**

***This policy is superseded by all current federal and state laws and mandates.***

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