

FAMILY AND MEDICAL LEAVE ACT

Purpose:

To provide personnel with a leave of absence for personal or family medical reasons, in accordance with the Family and Medical Leave Act of 1993.

Scope:

This policy applies to personnel who have been employee by the district for at least 12 months and have been employed by the district for at least 1,250 hours during the 12 months immediately preceding the commencement of the Leave.

Policy:

In accordance with the Family and Medical Leave Act of 1993, it is the policy of the district to provide eligible personnel up to 12 weeks of leave in a 12 month period for the following events:

- A. The birth, adoption, or foster care of a child.
- B. A serious health condition of the employee which renders him/her unable to perform the functions of the position; or,
- C. The care of an immediate family member with a serious health condition.

Definitions:

- A. "Child" is defined as a biological, adopted, foster or stepchild, or a "child" of a person acting in the capacity of a parent, provided that the child is under 18 years of age or older than 18 years but unable to care for themselves because of a mental or physical disability.
- B. "Immediate family member" is defined as a parent, spouse (as defined by state law), or child of the employee.
- C. A "serious health condition" is defined as an illness, impairment, injury or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility, or periodic or continuing treatment by a health care provider, or continues over an extended period of time, or may cause episodic rather than continuing period of incapacity (i.e., asthma, diabetes, epilepsy). In addition, serious health condition would be any condition which renders the employee unable to perform the functions of his/her job including an injury covered by Workers Compensation.
- D. The allowance for 12 weeks in a "12 month period" will be measured forward from the first day of the employee's FMLA leave.

- E. A “week” is considered to be seven consecutive calendar days from Monday through Sunday, regardless of the work schedule (shift or 40 hour).
- F. A “key employee” is defined as a salaried employee amongst the highest paid ten percent of all personnel.

Guidelines:

- A. To be eligible for benefits under this FMLA policy, an employee must have been employed by the district for at least 12 months, and have been employed for at least 1,250 hours of service during the 12 month period immediately preceding the commencement of the leave.
- B. Eligible spouses employed by the district are each entitled to 12 weeks of leave for the birth, adoption, or foster care placement of a child, or to care for an immediate family member with a serious health condition.
- C. Entitlement to leave for the birth, adoption, or foster care of a child expires after one year of the qualifying event.
- D. Personnel will be required to use any accrued paid leave (vacation or sick) at the commencement of the FMLA leave. Personnel who exhaust their paid leave prior to the end of their FMLA leave will then be on a unpaid FMLA leave except as provided in SOG #500.22, “Medical Leave Assistance Program”.
- E. Group insurance benefits will be provided for the duration of the leave at the same rate as if the employee were not on leave. The employee will still be required to pay his/her portion of the insurance premium, as per prevailing policy, and the payment must be made to the district. Payments are required no later than 30 days after it would be due if the employee were not on leave.
- F. If insurance coverage lapses because the employee fails to make his/her share of the premium payment, the district may cease to maintain the employee’s coverage. However, upon return from the FMLA leave, the coverage will be immediately restored.
- G. Insurance coverage may terminate if the district learns the employee does not intend to return to work or if the employee does not return to work as scheduled. Unless the failure to return is due to the continued serious health condition or circumstances beyond the employee’s control, the district will request that the employee reimburse the district for any premiums not paid by the employee during the leave.
- H. Accrual of benefit calculations for vacation and sick leave will continue during the FMLA leave.
- I. Intermittent or reduced scheduled leave may be taken when it is necessary for the employee’s own serious health condition. Intermittent leave can be a few hours per day or day or week off at intervals based on the medical leave. A reduced leave schedule is a schedule that reduces the number of work hours per day or week. Approval for intermittent or reduced leave will be granted only if deemed necessary by the health care provider.

- J. In order to accommodate the medical needs of the employee and the operational and business needs of the district, management may require an employee on intermittent or reduced scheduled leave to work in a different position or schedule during that period. The alternate position will provide the same pay and benefits as the position held prior to the leave.
- K. Upon return to work, the employee will be restored to the same position held before the leave, or to an equivalent position with equivalent pay and benefits, unless the employee has previously been notified that he/she is a “key employee”.
- L. Job restoration may be denied in very limited circumstances: (1) if the district can prove that an employee would not still be employed even if the leave had not been taken (i.e., layoff or completion of a specific project for which the employee was hired to work), or (2) if the employee is a “key employee,” provided that the denial is necessary to prevent substantial and grievous economic injury to the district.

Procedures:

- A. Personnel requesting an FMLA leave must complete a “Request for Family Medical Leave” form. In the event of a foreseeable leave, the employee must provide 30 days notice. If there is unforeseeable, verbal notice must be given within two working days of when the employee learns of the need for the leave, and written request must be submitted as soon as possible.
- B. Failure to provide appropriate notice may result in delay of the granting of the leave until the notice period is completed.
- C. If an employee is requesting an FMLA leave based upon a serious health condition, the district will require appropriate medical certification from the health care provider. The district requests that the employee submit the certification with their leave request. However, if that is not possible, it must be submitted in writing no later than 15 days after the leave request. The certification provided must include the following:
 - 1. The date on which the serious health condition commenced;
 - 2. The probable duration of the condition;
 - 3. The appropriate medical facts within the knowledge of the health care provider regarding the condition;
 - 4. When applicable, a statement that the employee is needed to care for a covered relation and the amount of time needed to provide such care.

Note: In addition, the district may request periodic, updated certification during the FMLA leave at intervals not less than 30 days.
- D. The district may require, at their expense, the opinion of a second health care provider of its choice. If the two opinions differ, the district may require, at its expense, a third opinion (by a mutually agreed upon provider), which will be final and binding. Refusal to submit to second or third opinion examinations will result in denial of the leave request.

- E. Prior to returning to work, the employee shall contact his/her supervisor to provide notification of his/her intent to return to work, and to determine when to report for duty.
- F. Before returning to work, an employee whose leave was due to his/her own serious health condition must provide a physician's release to return to work. Failure to provide the release will result in a delay in the employee's return to work. In addition, the employee may be required to obtain a release to return to work from the district's physician.