

This policy is adopted to implement the federal Family and Medical Leave Act of 1993 (FMLA) pursuant to the terms, conditions, and limitations of the act. In the event of any conflict between the provisions of this or any other leave policy of the district and the provisions of the FMLA, the latter shall prevail.

1. To be eligible for leave under the act an employee must have worked for the district for a total 12 months, during which the employee must have worked a total 1,250 hours.
2. Pursuant to the Family and Medical Leave Act, employees are permitted up to 12 workweeks of unpaid leave per year during any 12-month period. Family and medical leave can be requested for the following reasons:
  - a. childbirth and infant care;
  - b. placement of child with the employee for adoption or placement of a child with the employee by a state agency for foster care (entitlement to leave for birth or placement of a child expires 12 months after the birth or placement of the child);
  - c. care of the employee's spouse, son or daughter or parent with a serious health condition; and
  - d. the inability of the employee to perform his or her job duties due to his or her own serious health condition, or the necessary absence from work of an employee to receive medically necessary treatment.

The 12-month period within which each employee may take 12 weeks of leave under the FMLA shall be a "rolling" 12-month period, measured backward for each employee from the first time each such employee uses leave under the FMLA.

3. A "serious health condition" is an illness, injury, impairment, or physical or mental condition that (a) requires in-patient care in a hospital, hospice, or residential medical care facility, or (b) requires continuing treatment by a health care provider and which, if left untreated, would likely result in an absence from work of more than three days, or (c) involves pre-natal care. A "serious health condition" does not include voluntary cosmetic treatments, unless inpatient care is required, or routine physical examinations.
4. An employee requesting leave shall submit a "Request for Leave" form to his/her supervisor, who in turn will forward the request to the superintendent.

5. **If an employee requests leave for treatment of an employee's serious medical condition or for that of a child, parent, or spouse, the employee must make a reasonable effort to schedule the treatment at a time that is not unduly disruptive to the district.**
6. **An employee seeking leave for a foreseeable reason such as the birth or placement of a child or for planned medical treatment, shall provide the district with at least 30 days advance notice of the leave. If 30 days advance notice is not possible under the circumstances, e.g., in the case of a premature birth, the employee shall give such notice as is practicable, e.g., within one or two business days of the day the employee learns of the need for leave. If an employee's reason for seeking leave was unforeseeable, such employee shall give such notice as is practicable. An employee who fails to give notice of leave as required herein may be denied such leave until the notice requirements are met. If less than 30 days notice of leave is provided, the employee must schedule an appointment with the superintendent of schools for approval.**
7. **An employee seeking leave on the basis of the serious medical condition of the employee or the employee's spouse, son or daughter, or parent, must provide certification issued by the health care provider of the employee or of the employee's spouse, son or daughter, or parent, stating**
  - a. **the date the condition began,**
  - a. **its probable duration,**
  - b. **appropriate medical facts, and**
  - c. **that, for a specified time, either**
    - (1) **the employee is unable to perform his or her job functions or will be unavailable to do so while receiving necessary medical treatment, or**
    - (2) **the employee will be needed to care for the sick family member. If the adequacy of medical certification is questioned by the district, the district may require the employee to seek the opinion of a second health care provider, who is not regularly employed by the district, at the district's expense. If the opinions of the first and second health care providers differ, the district may require the employee to obtain a third opinion at the district's expense, from a health care provider agreed upon by the employee and the district. The third opinion shall be final and binding.**
8. **Spouses employed by the district are limited to a combined total of 12 workweeks per year for the birth or placement of a child, or to care for a parent. However, for other covered leaves, such as to care for a spouse or**

child, or for treatment of the employee's own serious health condition, each spouse may take up to 12 weeks a year.

9. Intermittent leave and reduced work schedules are allowed when such are medically necessary; however, employees may not take intermittent leaves or go on reduced work schedules that reduce the number of hours worked per week or per day for childbirth/infant care or adoption leave.
10. If an eligible "instructional employee" seeks intermittent leave or reduced-schedule leave for the care of a spouse, son or daughter, or parent, or for the employee's own serious health condition, and the leave is foreseeable on the basis of planned medical treatment, and the employee would be on leave for more than 20 percent of the work days during the period, the employee must choose either to:
  - a. take leave for a period or periods of a particular length, not greater than the length of the planned medical treatment; or
  - b. transfer temporarily to an equivalent position which better accommodates recurring periods of leave.

"Instructional employees" include teachers, instructional assistants, coaches, and other employees whose duties principally involve the direct provision of instructional services to students. In the event an employee involuntarily takes additional leave time under subparagraph 10 a, above, the entire leave time shall be counted against the employee's available leave under the FMLA and any district leave policy.

11. If any employee requests intermittent leave or leave on a reduced work schedule to care for a seriously-ill family member or for the employee's own serious health condition, and the need for leave is foreseeable based upon planned medical treatment, the employee may temporarily be transferred to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and the position better accommodates recurring periods of leave than the employee's regular job.
12. The responsibilities of instructional employees near the end of academic terms -- examinations, grading, etc. -- require that the school district be able to limit leave taken by instructional employees at such times as follows:
  - a. Leaves beginning more than five weeks before the end of a semester: If an instructional employee starts a leave more than five weeks before the end of a semester, the school district may require the employee to continue the leave until the end of the semester if:

- (1) the leave is of at least three weeks duration; and
  - (2) the employee would return from leave during the three week period preceding the semester's end.
- b. **Leaves beginning five weeks or less before the end of a semester:** If an instructional employee begins a leave five weeks or less before the end of a semester, the school district may require the employee to continue the leave until the end of the semester if:
- (1) the leave will last more than two weeks; and
  - (2) the employee would return from leave during the two-week period before the term's end.
- c. **Leaves beginning three weeks or less before the end of a semester:** If an instructional employee starts a leave three weeks or less before the end of a semester, the school district may require the employee to continue the leave until the end of the term if the leave will last more than five working days.
13. All requests for family/medical leave must be approved by the employee's supervisor and the superintendent.
14. Employees who take family/medical leave must utilize any available paid leave they have accrued under another of the district's leave policies when the reason for leave corresponds with the basis for leave under the other policy. Accrued vacation or sick leave shall be substituted for any FMLA-qualifying purpose. If the requested leave period extends beyond the employee's accrued number of paid leave days, the remaining leave days will be unpaid.

[Example A: An employee who sought leave due to his or her own serious medical condition and inability to perform his or her job duties has accrued six weeks sick leave. The employee must use the six weeks of paid sick leave and may thereafter use the remaining six weeks of unpaid leave available under this policy;]

[Example B: An employee wishes to use four weeks of leave under this policy for birth or adoption of a child. The employee may substitute paid maternity or paternity leave, but is not required to, and may not, substitute paid sick leave, except to the extent allowed by the maternity/paternity leave policy.]

Any employee seeking leave shall explain the reasons for the needed leave on forms provided by the district. It shall be the district's responsibility to identify the requested leave as covered by the FMLA and as paid or unpaid on the basis of leave time accrued under other district leave policies. Such identification

shall be made at the time leave is requested or during such leave, on the basis of information provided by the employee.

15. During the period of leave, the school district will maintain coverage for the employee under the district group health plan if enrolled; however, the employee is responsible for continuing to pay the employee's monthly portion of the premium. If an employee fails to make payment of the employee's share of health insurance premiums for 30 days after such payment is due, coverage of such employee for benefits shall be discontinued. If the employee fails to return to work following leave under the FMLA or any reason (1) other than the continuation of the FMLA-qualifying circumstances upon which the need for leave was originally based, or (2) circumstances beyond the control of the employee, the employee shall be required to reimburse the district for the cost of health insurance premiums the district paid to maintain coverage for the employee during the leave period.
16. Employees will not accrue leave or other benefits during the family/medical leave period.
17. An employee other than a "key employee," who has taken family/medical leave will be restored to his or her previous position or to a position of equivalent pay, benefits, and other terms and conditions of employment. Equivalency of positions shall be determined on the basis of district policy. A "key employee" may be denied reinstatement if it would create a substantial and grievous economic injury for the school district. A "key employee" is one whose compensation is within the highest 10 percent of the work force of the school district.
18. In each district building there shall be posted a notice to employees, describing the provisions of the FMLA, provided and approved by the Wage and Hour Division of the United States Department of Labor.