

Family Medical Leave Policy

This policy is adopted in conformance with the Family and Medical Leave Act, 29 U.S.C. ' 2601 and implementing regulations located at 29 C.F.R., ' 825 et seq. and supersedes all other District policies related to family leave, sick leave, bereavement leave, pregnancy leave and/or disability leave.

Definitions—

1. Eligible Employee

- a. An “eligible employee” means any classified or certified employee of the District who has been employed for at least 12 months by the District and worked at least 1,250 hours during the immediate 12-month period prior to any request for leave under this Policy.

29 CFR § 825.110

2. Employment Benefits

- a. The term “employment benefits” means all benefits provided by the District to its employees such as group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pension or retirement benefits.

3. Health Care Provider

- a. The term “health care provider” means a licensed doctor of osteopathy or medicine.

4. Parent

- a. The term “parent” means the natural or adoptive parent of a child or legal guardian who acts in the place of a parent.

5. Son or Daughter

- a. The term “son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, of a person who acts as parent. A child is: (a) less than 18 years of age; or (b) older than 18 years but incapable of self-care due to mental or physical disability.

6. Spouse

- a. The term “spouse” means a legal husband or wife.

7. Serious Health Condition

- a. The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that requires:

- i. inpatient care consisting of an overnight stay in a hospital, hospice, or residential medical facility and subsequent treatment; or
- ii. continuing treatments by a health care provider, which includes:
 - 1. two visits within the first 30 days of incapacity with the first visit occurring during the first 7 days of incapacity;
 - 2. periods of inability to work of more than three (3) consecutive calendar days that also involves treatment two or more times by a health care provider or at least one time which results in a regimen of continuing treatment;
 - 3. any period of incapacity due to pregnancy or prenatal care;
 - 4. any period of incapacity or treatment due to a chronic serious health condition which:
 - a. requires periodic visits, at least 2 visits per year, for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - b. continues over an extended period of time (including recurring episodes of a single underlying condition); or
 - c. may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
 - 5. a period of incapacity which is permanent or long-term due to a serious health condition for which treatment may not be effective, such as Alzheimer's disease, severe stroke, or terminal stages of a disease.

29 CFR § 825.114

Eligibility—

An eligible employee is entitled to a total of 12 work weeks of leave without pay during any 12-month period in the event of any of the following:

- 1. the birth of a son or daughter of the employee and to care for that newborn son or daughter;
 - a. an expectant mother may take FMLA leave before the birth of the child for prenatal care or if her condition makes her unable to work.

2. the placement of a son or daughter with the employee for adoption or foster care;
 - a. a father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.
3. a spouse, son, daughter or parent who has a serious health condition; or
4. the employee suffers from a serious health condition that makes the employee unable to perform the essential functions of that employee's position.

An eligible employee is entitled to a total of 26 work weeks of leave without pay during a 12-month period to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty.

An eligible employee is entitled to a total of 12 work weeks of leave without pay during a single 12-month period for any qualifying exigency arising out of a covered military family member who is on active duty or called to active duty status in support of a contingency operation. A qualifying contingency exists in the following circumstances:

1. Short-notice deployment;
2. Military events and related activities;
3. Child care and school activities;
4. Financial and legal arrangements;
5. Counseling;
6. Rest and Recuperation;
7. Post-deployment activities; and
8. Additional activities not encompassed in the above, but agreed to by the employee and the District.

29 CFR 825.112

29 CFR 825.200

29 CFR 825.122

Concurrent Leave—

The board hereby designates all paid or unpaid leave for any reason to be counted as part of and included in the Family Medical Leave so that an employee shall be entitled to no more than the maximum available leave allowed under the Family Medical Leave Act and other types of leave taken together.

The District hereby requires the employee to substitute any accrued vacation leave, personal leave, or family leave of the employee in place of any part of the FMLA leave week period of any leave under this policy.

Nothing shall require the District to provide paid sick leave, vacation leave, annual leave, or other type of paid leave in any situation where it is not otherwise provided under District policies.

Foreseeable Leave—

An employee shall make a reasonable effort to:

1. provide the District with at least 30 days prior written notice of any anticipated leave under this policy whenever the leave is foreseeable; and
2. schedule treatment so as not to unduly disrupt the operations of the District.

29 CFR 825.302

Employer Notification—

The District shall post in a conspicuous place on school premises a notice of rights under this policy [This Notice must be approved by the Secretary of Labor. See Policy Exhibit 1.]

Upon receipt of a written request for Family Medical Leave, the District will provide the employee written notification of the status of the leave request within 5 working days.

Spouses of Employees Employed by the District—

In any case where both husband and wife are employees of the District and both seek leave under this policy, such leave shall be limited to an aggregate of the maximum allowed individual leave during any 12-month period if:

1. Leave is sought to care for a newborn daughter or son or the adoption of a daughter or son; or
2. Leave is sought to care for a sick parent.

29 CFR 825.202

Required Medical Certification—

All leave under this policy must be supported by a certification issued by a health care provider.

1. The Board hereby designates all qualifying leave as Family Medical Leave.
2. The medical certification shall be provided at least fifteen (15) days after leave is requested or when the employee begins unforeseeable leave.
3. A certification is sufficient if it states:
 - a. The date on which the serious health condition commenced.

- b. The probable duration of the condition.
 - c. If additional treatments will be required for the condition, an estimate of the probable number of such treatments.
 - d. Which part of the definition of “serious health condition”, if any, applies to the patient’s condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.
 - e. If medical leave is required for the employee’s absence from work because of the employee’s own condition (including absences due to pregnancy or a chronic condition), whether the employee:
 - i. Is unable to perform work of any kind;
 - ii. Is unable to perform any one or more of the essential functions of the employee’s position, including a statement of the essential functions the employee is unable to perform, based on either information provided on a statement from the employer of the essential functions of the position or, if not provided, discussion with the employee about the employee’s job functions; or
 - iii. Must be absent from work for treatment.
 - f. A statement that the serious medical condition prevents the employee from performing the tasks of the position or that requires the employee to attend and care for a son, daughter, spouse, or parent.
4. The District may require the employee taking Family Medical Leave to complete the attached Fitness for Duty Certification prior to his/her return to work at the District. See Policy Exhibit 2
- 29 CFR 825.202
29 CFR 825.312

Other Provisions—

- 1. An employee who takes leave in conformance with this policy is entitled to:
 - a. be restored to the position held by the employee prior to leave; or
 - b. be provided an equivalent position in terms of benefits, pay and responsibilities.
- 2. No benefit accrued prior to taking leave shall be lost as a result of taking leave under this policy.

3. The employee shall not accrue any seniority or employment benefits during any period of leave.
4. The District may deny restoration of employment or an equivalent position if:
 - a. The denial is necessary to prevent substantial and grievous economic injury to the operations of the District;
 - b. The District notifies the employee that it intends to deny restoration when it determines that injury would occur;
 - c. The employee elects not to return to employment after receiving notice; and
 - d. The employee is among the highest paid 10% of employees of the District.
5. If an employee fails to return to work after leave expires for reasons other than continuation, recurrence, or onset of a serious health condition of the employee, son, daughter, or spouse, then the District may recover the premium paid for maintaining coverage for the employee during the leave period.

29 CFR 825.215

Rules Applicable Near End of School Year—

If the employee begins leave more than five (5) weeks prior to the end of the school year, the employee must continue taking unpaid leave until the end of the school year if:

1. The leave requested is of at least three (3) weeks duration; and
2. The return to employment would occur during the week period before the end of the school year.

If the employee begins leave for reasons other than a personal serious health condition which commences less than five (5) weeks prior to the end of the school year, then the employee must continue to take unpaid leave until the end of the school year if:

1. The leave requested is of greater than a 2-week duration;
2. The return to employment would occur during the 2-week period before the end of the school year.

If the employee begins leave for reasons other than personal serious health condition during the period that commences three (3) weeks prior to the end of the school year and the leave is greater than five (5) working days, then the employee must continue to take unpaid leave until the end of the school year.