

The School Board of Collier County

Bylaws & Policies

3430.01 - FAMILY/MEDICAL LEAVE (FAMILY MEDICAL LEAVE ACT)

Leave Policy

Employees are eligible to take up to twelve (12) weeks of unpaid family/medical leave within any twelve (12) month period and be restored to the same or an equivalent position upon their return from leave (subject to the terms of the Family and Medical Leave Act (FMLA)) provided they have worked for the District for at least twelve (12) months, and for at least 1,250 hours in the last twelve (12) months. The twelve (12) month period is a rolling twelve (12) months and will be measured backward from the date an employee uses any FMLA leave. (see AP 3430.01)

FMLA Qualifying Events

Employees may take family/medical leave for any of the following reasons:

- A. the birth of a son or daughter and in order to care for such son or daughter;
- B. the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly-placed son or daughter;
- C. to care for a spouse, son, daughter, or parent (called a "covered relation") with a serious health condition; or
- D. because of the employee's own serious health condition which renders the employee unable to perform any of the essential functions of his/her position.

Leave because of the birth of a son or daughter and in order to care for such son or daughter or the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly-placed son or daughter must be completed within the twelve (12) month period beginning on the date of birth or placement. In addition, spouses employed by the District who request leave because of the birth of a son or daughter and in order to care for such son or daughter; the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly-placed son or daughter; or to care for an employee's parent with a serious health condition may only take a combined total of twelve (12) weeks leave during any twelve (12) month period.

Intermittent and Reduced Schedule Leave

Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a District approved reduced leave schedule (reducing the usual number of hours an employee works per work week or work day) if medically necessary. If leave is unpaid, the District will reduce the employee's salary based on the amount of time actually worked. In addition, while the employee is on an intermittent or reduced schedule leave, the District may temporarily transfer the employee to an available alternative position which better accommodates the recurring leave and has equivalent pay and benefits.

Notice of Leave

If the employee's need for family/medical leave is foreseeable, the employee must give the District at least thirty (30) days' prior written notice. If this is not possible, the employee must at least give notice as soon as practicable (within two (2) business days of the employee learning of the need for leave). Failure to provide such notice may be grounds for delay of leave.

Additionally, if the employee is planning a medical treatment, s/he must consult with the District first regarding the dates of such treatment. Where the need for leave is not foreseeable, the employee is expected to notify the District within two (2) business days of learning of the need for leave, except in extraordinary circumstances.

Family/Medical leave forms are available from the Office of Human Resources and the U.S. Department of Labor Website: www.dol.gov. Employees should use these forms when requesting leave.

Leave is Unpaid

Family/Medical leave is unpaid leave, although the employee may be eligible for short- or long-term disability payments and/or workers' compensation benefits under those insurance plans or policies.

If the leave is "unpaid" leave, the employee will be required to exhaust all other paid time off (vacation, sick days, and/or personal days) for "unpaid" FMLA leave as described below. If the employee requests leave for any FMLA qualifying event, any accrued paid vacation, personal days, and sick days first will be substituted for unpaid family/medical leave.

The substitution of paid leave time for unpaid leave time does not extend the twelve (12) week leave period; in other words, FMLA leave runs CONCURRENT with any paid leave.

Family/Medical leave runs concurrently with other types of leave (i.e., paid vacation, State family leave laws, etc.). Those other leaves may provide for paid leave.

No Work While on Leave

An employee that has been approved for family/medical leave because of the employee's own serious health condition will not work in any capacity, including employment outside the District. Violation of this provision is grounds for immediate termination, to the extent permitted by law.

Returning From Leave

A staff member who takes leave for reason (D) on page one, prior to returning to work, must provide the Superintendent with a fitness-for-duty certification that specifically addresses the staff member's ability to perform the essential functions of his/her job. The fitness-for-duty certification shall only apply to the particular health condition that caused the staff member's need for FMLA leave. If reasonable safety concerns exist, the Superintendent may, under certain circumstances, require a staff member to submit a fitness-for-duty certification before s/he returns to work from intermittent FMLA leave. The cost of the certification shall be borne by the staff member. Employees may obtain a return to work medical certification form from the Office of Human Resources. Employees failing to provide the completed form will not be permitted to resume work until it is provided.

Medical and Other Benefits

During an approved family/medical leave, the District will maintain the employee's health benefits as if the employee continued to be actively employed. If paid leave is substituted for unpaid family/medical leave,

the District will deduct any portion of the health plan premium that would be normally due as a regular payroll deduction.

If the employee's leave is unpaid, s/he must pay their portion (including dependent and other benefits) of the premium. Health care coverage will cease if the employee's premium payment is more than thirty (30) days late. If the payment is more than fifteen (15) days late, the District will send the employee a letter to this effect. If the District does not receive the payment within fifteen (15) days after the date of this letter, the coverage may cease.

If the employee elects not to return to work for at least thirty (30) calendar days at the end of the leave period, the employee will be required to reimburse the District for the cost of the health benefit premiums paid by the District for maintaining coverage during his/her unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond their control.

Exemption for Highly Compensated Employees

The District may choose not to return highly compensated employees (highest paid ten percent (10%) of employees at a worksite or within seventy-five (75) miles of that worksite) to their former or equivalent positions following a leave if restoration of employment will cause substantial hardship to the District. (This fact specific determination will be made by the District on a case-by-case basis.) The District will notify employees if they qualify as a "highly compensated" employee, if the District intends to deny reinstatement, and of the employee's rights in such instances.

FMLA for Military Service Members' Families

Definitions

- A. "Next of kin" is defined as "the nearest blood relative" of the service member.
- B. The term "serious illness or injury" is defined as one that renders the service member medically unfit to perform the duties of the member's military position.
- C. The "covered service member" is one who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list due to the injury or illness.

Types of Military Leave and Eligibility

There are two (2) types of military leaves available pursuant to prevailing law. These are active duty leave and military caregiver leave.

Under "active duty" leave, the District will grant leave for up to twelve (12) weeks per year because of "any qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

Under "military caregiver" leave, the District will grant military caregiver leave for up to twenty-six (26) weeks in a single twelve (12) month period to an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member, who is recovering from a serious illness or injury sustained in the line of duty on active duty, in order to care for the service member.

Employees are entitled to military caregiver leave intermittently or continuously, but only during a "single twelve (12) month period". If an employee takes this military caregiver leave, any leave s/he has used of

their twelve (12) weeks allotment for other FMLA leave will be deducted from the twenty-six (26) week period.

Application and Notice

If a request is for military caregiver leave and the leave is foreseeable, such as for planned medical treatment, the employee must submit the application for leave not less than thirty (30) days before the date the leave is to begin. The employee should attempt to schedule his/her leave so as not to disrupt School District operations. When the need for leave is not foreseeable, the employee must submit the application as far in advance of the date the leave is to begin as is practicable.

A leave pursuant to the military family leave provisions may be taken on an intermittent (rather than on an uninterrupted) basis or on a reduced schedule if medically necessary because of the health condition of the service member who is the employee's spouse, child, parent, or next of kin.

Qualifying Exigency

The District will regard the following activities as eligible for active duty leave:

- A. attending official ceremonies or programs where the participation of the family member is requested by the military
- B. attending to farewell or arrival arrangements for a service member
- C. attending to affairs caused by the missing status or death of a service member
- D. making arrangements for child care or elder care
- E. making financial and legal arrangements to address the service member's absence
- F. other events may qualify in the District's sole discretion

Conditions

Any conditions applicable to current FMLA leave, such as potential transfers to alternative positions, are applicable to military family leave.

If the employee and his/her spouse are both employed by the District, and both employees are taking leave because of a qualifying exigency and any of the other FMLA leave, both employees are entitled to a combined total of twelve (12) weeks of leave, rather than twelve (12) weeks each.

If the employee and his/her spouse are both employed by the District, and both employees are taking military caregiver leave and any other FMLA leave, both employees are entitled to a combined total of twenty-six (26) weeks of leave, rather than twenty-six (26) weeks each. Limitations of twelve (12) weeks of any leave other than military caregiver leave are still valid.

The employee's health insurance benefits will be continued under the same terms as they are offered when the employee is at work. The District will pay all premiums due if an employee is unable to do so during their FMLA leave; however, such premiums must be re-paid to the District one the employee has returned to work. If, during the military FMLA leave, the employee indicates that s/he does not intend to return to work, or if after completion of the leave the employee does not return to work, the employee will be required to reimburse the District for the cost of payments made to maintain his/her benefits during the leave.

Paid leave, if available, may be used during military FMLA leave under the same terms and conditions as for any FMLA leave. If paid leave is unavailable, military FMLA leave is still available to an eligible employee. If the employee has not available District leave and is not authorized to take FMLA leave, yet the employee still chooses to take leave, the employee may be regarded as absent under the District's current policies.

NOTE: Additional FMLA forms are available at the U.S. Department of Labor Website: www.dol.gov.

F.S. 110.221, 1012.61
29 U.S.C. 2601 et seq. (as amended)
29 C.F.R. Part 825
45 C.F.R. Part 160, 164
National Defense Authorization Act of 2010

Revised 10/21/10
Revised 8/16/11
Revised 10/13/15

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