

PERSONNEL

FAMILY AND MEDICAL LEAVE

Leave Description

Eligible employees may use unpaid family and medical leave, guaranteed by the federal Family and Medical Leave Act, for up to a combined total of 12 weeks each 12-month period, measured backward from the date an employee uses any family and medical leave. Should a teacher at any time prior to the teacher's retirement year utilize paid sick leave authorized by the Morton Educator's Association/Board of Education Agreement, the District shall receive credit toward its obligations under the FMLA to provide during a 12-month period of time, 12 weeks of continuation of insurance benefits. However, the District's credit toward its FMLA obligation shall not commence until an employee has either used ten (10) consecutive sick days or has chosen FMLA prior to that time. An employee cannot be required to utilize paid sick leave if the employee requests to utilize FMLA with insurance benefit continuation, but no pay. Further, an employee will be entitled to 12 full weeks of leave under FMLA for non-medical or illness related purposes regardless of the number of paid sick leave days utilized during the preceding 12-month period. The use of FMLA leave cannot result in the loss of any employment benefit that occurred prior to the start of an employee's leave or otherwise diminish any right or benefit of an employee under the Morton Educator's Association/Board of Education Agreement.

Thus, under this "rolling" 12-month period, each time an employee takes family and medical leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. Because the District has elected to change the method by which it measures 12-month periods for purposes of the Family and Medical Leave Act, this change shall not be effective until 60 days after notice of this policy change is provided to all District employees. During the running of the 60-day period, any employee who needs family and medical leave may use the 12-month period provided under the previous District policy, or the 12-month period provided under this current policy, whichever provides the most beneficial outcome to that employee. At the conclusion of the 60-day period, this policy, with its "rolling" 12-month period, shall control.

Other available paid vacation, personal, or family leave will be substituted for family and medical leave necessitated by birth, adoption/foster care placement, or a family member's serious health condition. Other available paid vacation, personal, or sick leave will be substituted for family and medical leave necessitated by a family member's or employee's own serious health condition. Any substitution required by this policy will count against the employee's family and medical leave entitlement. The District will pay

family leave or sick leave only under circumstances permitted by the applicable leave plan. Use of family and medical leave shall not preclude the use of other applicable unpaid leave that will extend the employee's leave beyond 12 weeks, provided that the use of family and medical leave shall not serve to extend such other unpaid leave.

Family and medical leave is available in one or more of the following instances:

1. The birth and first-year care of a son or daughter,
2. The adoption or foster placement of a child,
3. The serious health condition of an employee's spouse, parent, or child, and
4. The employee's own serious health condition that makes the employee unable to perform the functions of the position of such employee.

Leave for reasons 1 or 2, above, shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the District agree otherwise. Employees may take an intermittent or reduced-hour family and medical leave when the reason for the leave is 3 or 4, above, however, the District may require the employee to transfer temporarily to an alternative position which has equivalent pay and benefits, but which better accommodates recurring periods of absence or a part-time schedule.

Certification

Within 15 calendar days after the Superintendent makes a request, an employee must support a request for a family and medical leave when the reason for the leave is 3 or 4, above, with a certificate completed by the employee's or family member's health care provider. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform the functions of his or her position. Failure to provide the certification may result in a denial of the leave request. At the time the Superintendent requests certification, the Superintendent shall also advise the employee of the anticipated consequences of the employee's failure to provide adequate certification. The Superintendent shall advise the employee whenever the District finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

At its discretion, the Board of Education may require the employee to obtain a second opinion at the District's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the Act, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to family and medical leave, the leave shall not be designated as family and medical leave and may be treated as paid or unpaid leave under the District's established leave policies. The District shall designate the health care provider to furnish the second opinion. If the opinions of the employee's and the District's designated health care providers differ, the Board of Education may require the employee to obtain certification from a third health care provider at the District's expense. This third opinion shall be final

and binding. The third health care provider must be designated or approved jointly by the Board of Education and the employee.

Spouse Employed by District

If both spouses are employed by the District, they may together take only 12-weeks for family and medical leaves when the reason for the leave is 1 or 2, above, or to care for a sick parent.

Eligibility

To be eligible for family and medical leave, an employee must either:

1. Have been employed by the District for at least 12 months (the 12 months need not be consecutive) and have been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave, or
2. Be a full-time classroom teacher who has been employed for at least 12 months, provided the District cannot establish that the teacher failed to provide at least 1250 hours of service during the 12-month period immediately before beginning the leave.

Notice

If possible, employees must provide at least 30 days' notice to the District of the date when a leave is to begin. If 30 days' notice is not practicable, the notice must be given within no more than one or two working days of the employee learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. Employees shall provide at least verbal notice sufficient to make the District aware that he or she needs a family and medical leave, and the anticipated timing and duration of the leave. Failure to give the required notice may result in a delay in granting the requested leave until at least 30 days after the date the employee provides notice.

Continuation of Health Benefits

During a family and medical leave, employees are entitled to continuation of health benefits that would have been provided if they were working. In event that an employee elects not to return to work upon completion of an approved family and medical leave, the employee must reimburse the District for the cost of any payment made to maintain the employee's coverage, unless the reason the employee does not return is due to (1) the continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under the Family and Medical Leave Act; or (2) other circumstances beyond the employee's control.

Return to Work

An employee returning from a family and medical leave will be given an equivalent position to his or her position before the leave, subject to the District's reassignment policies and practices.

Classroom teachers may be required to wait to return to work until the next semester in certain situations as provided by law.

Required Leave

When a teacher requests intermittent leave or leave on a reduced leave schedule to care for a family member, or for the teacher's own serious health condition, which is foreseeable based on planned medical treatment, and the teacher would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the District may require the teacher to choose either to: (1) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or (2) Transfer temporarily to an available alternative position for which the teacher is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the teacher's regular position.

If a teacher begins leave more than five weeks before the end of a school term, the District may require the teacher to continue taking leave until the end of the term if the leave is at least three weeks' duration and the teacher the teacher's return would take place during the last three weeks before the end of the school term.

If a teacher begins leave five weeks or less before the end of the school term, and the leave is for reasons other than the teacher's own serious health care condition, the District may require the teacher to continue taking leave until the end of the term if the leave will last more than two weeks and the teacher's return would take place during the two-week period before the end of the school term.

If a teacher begins leave during the three-week period before the end of the school term for a purpose other than the teacher's own serious health care condition, and the leave will last more than five working days, the District can require the teacher to continue taking leave until the end of the school term.

Implementing Procedures

The Superintendent shall develop procedures to implement this policy consistent with the federal Family and Medical Leave Act.

LEGAL REF.: Family and Medical Leave Act, 29 U.S.C. §2601 et seq., 29 C.F.R. Part 825.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:250 (Leaves of Absence), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

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