

Family and Medical Leave Act

Employees may be entitled to family and medical leave under the federal Family and Medical Leave Act of 1993 (FMLA) and/or under RSA 189:73 when they meet all of the eligibility requirements of these laws. This policy sets forth several rules that must be applied uniformly to all employees who may be eligible for family and medical leave. This policy is not intended to expand the District's obligations beyond the requirements of the FMLA and/or RSA 189:73. As used in this policy, "family and medical leave" means leave available under either or both the federal and state laws.

Employee Eligibility under the Federal FMLA

Employees are eligible for the federal FMLA if they have been employed by the District for at least 12 months, have worked at least 1,250 hours in the 12 months immediately preceding the requested leave, and are employed at a worksite where the District employs at least 50 employees within a 75-mile radius.

Employee Eligibility and Leave under RSA 189:73

Employees are eligible for family and medical leave under RSA 189:73 if they have been employed by the District for at least 12 months and have worked at least 900 hours in the 12 months immediately preceding the requested leave.

Employees who meet RSA 189:73's eligibility criteria will be provided with family and medical leave under the same terms and conditions as leave provided to employees eligible for leave under the federal FMLA. As permitted by law, family and medical leave under RSA 189:73 will be used concurrently with leave provided under the federal FMLA.

FMLA Eligibility Periods

There are two types of eligibility periods under the federal FMLA as described below:

1. 12-Month Period for Birth, Adoption, or Foster Care; Serious Health Condition Purposes; Qualifying Exigency

Eligible employees may use up to twelve (12) weeks of unpaid family and medical leave during a 12-month period for the following reasons:

- a. Birth and care of the newborn child of the employee;
- b. Placement with the employee of a son or daughter for adoption or foster care;
- c. Care for an immediate family member (spouse, child, or parent) with a serious health condition;
- d. Medical leave when the employee is unable to perform the essential functions of their job because of their own serious health condition; or
- e. Qualifying exigency leave for an employee whose spouse, child, or parent is a regular member of the Armed Forces on covered active duty deployed to a foreign country or a reserve member of the Armed Forces (including National Guard) on covered active duty deployed to a foreign country under a call or order to active duty in a contingency operation.

The 12-month period used to determine employee eligibility for family and medical leave for the purposes described above shall be a rolling 12-month period measured backward from the date of the employee's request for leave.

2. 12-month Period for Military Caregiver Leave

Eligible employees may use up to 26 weeks of unpaid family and medical leave during a single 12-month period to care for a spouse, child, parent, or next of kin of an eligible service member or

veteran with a serious injury or illness. The 12-month period for military caregiver leave is calculated separately from the 12-month period for family and medical leave taken for other qualifying reasons (as outlined above in Section 3(a)). The 12-month period for military caregiver leave is calculated from the first day that the leave is taken for this purpose. Any military caregiver leave that is not taken within this specific 12-month period is forfeited.

The military caregiver 12-month leave period may overlap with the District's regularly designated family and medical leave period and, in certain circumstances, may impact the employee's eligibility to take family and medical leave for other qualifying reasons.

Limitations on FMLA Leave

Leave may be taken for childbirth, adoption, or foster care placement of a child only within twelve (12) months of that childbirth, adoption, or placement. The District may require that such family and medical leave be taken on a full-time basis.

Leave for serious health conditions, either of a family member or the employee, may be taken intermittently or a reduced schedule if medically necessary. The minimum time for family and medical leave taken on an intermittent basis is 1 hour per work day.

Notice by Employee

Employees requesting leave shall provide at least 30 days' notice to the District whenever the need for such leave is foreseeable. If the employee is unable to provide thirty (30) days' notice for either foreseeable or unforeseeable leave, then the employee must provide such notice as is practicable. Upon request by the District, the employee shall provide appropriate supporting medical certification (or other certification appropriate to the particular request).

When the District has reason to believe that an employee is or will be absent for an FMLA-qualifying purpose, the District may request the appropriate information from the employee to determine the employee's eligibility for family and medical leave.

Coordination with Other Leave

When Leave is taken that qualifies both as protected family and medical leave (under the FMLA and/or RSA 189:73) and as permitted leave under any employment contract, collective bargaining agreement, or District policy, the employee shall use family and medical leave and the other type of leave concurrently, provided that the employee meets all of the eligibility requirements for each type of leave and as permitted by law.

Fitness for Duty Certificate

Before an employee returns to work from family and medical leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider indicating that the employee is able to return to work and perform all of the essential functions of his or her position.

Employment and Benefits Protection

Except as permitted by law, at the end of an authorized family and medical leave, an employee will be reinstated to their former position or to a position equivalent in pay, benefits, and other terms and conditions of employment. As permitted by law, the Superintendent, or his/her designee, may reassign a teacher, consistent with the Master Agreement, to a different grade level, building, or other assignment, consistent with the employee's certification.

Employees who take protected family and medical leave will not lose any previously accrued seniority or employment benefits. However, such benefits will not continue to accrue during the employee's family and medical leave.

During family and medical leave, the District will maintain the employee's health insurance benefits under the same terms and conditions applicable to employees not on leave. If family and medical leave is paid through the use of accrued leave time, the District will deduct the employee's portion of the health plan premium as a regular payroll deduction. If family and medical leave is unpaid or paid through benefits not provided through the District's payroll system (e.g., workers' compensation or disability benefits), the employee must contact the District to make arrangements to pay their portion of the health plan premium. Failure to make such arrangements and pay the employee-portion of the premium costs during family and medical leave may jeopardize an employee's entitlement to continuation of coverage.

Reference to the FMLA and its Implementing Regulations:

The FMLA and its implementing regulations issued by the U.S. Department of Labor contain many definitions, limitations, and qualifications that are not stated in this policy. The Ashland School District reserves the right to apply the terms of the FMLA and the FMLA federal regulations.

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