

**FAMILY AND MEDICAL LEAVE ACT (FMLA) OF 1993
LEAVE POLICY FOR THE LONDONDERRY SCHOOL DISTRICT**

School Board Policy

The Londonderry School District, SAU#12, will comply with the provisions of Federal and State statutes, as amended from time to time, relating to family and medical leave. Any such provisions shall be deemed to operate concurrently with any paid or unpaid leave granted pursuant to any collective bargaining agreement or Board voted leave policy. The District will comply with any rights or benefits contained within such Federal or State statutes which provide for any rights or benefits which exceed those contained in any collective bargaining agreement or Board voted leave policy only to the extent and for the duration required by statute.

Eligibility

An employee is eligible to request an FMLA leave if he/she has been an employee of the Employer for at least twelve (12) months and has worked at least 1250 hours during the twelve (12) month period preceding the leave.

Leave Entitlement

An eligible employee will be granted up to twelve (12) workweeks of unpaid FMLA leave during any twelve (12) month period for one or more of the following events:

- a. The birth and first year care of a child;
- b. The placement of a child for adoption or foster care in the employee's home;
- c. The care of the employee's spouse, child or parent with a serious health condition; or
- d. The employee's serious health condition of which renders him/her unable to perform the functions of the position.

An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period.

Intermittent or reduced work schedules allowed under c. and d. above if medically necessary. Intermittent or reduced work schedules will not be allowed for childbirth/child care, adoption or placement of foster child. Leave increments are limited to no less than ½ day for salaried employees and one (1) hour for hourly paid employees.

Twelve-month period

The twelve (12) month period is measured forward from the date an employee's first FMLA leave begins. The next twelve (12) month period begins the first day FMLA leave is taken after completion of any previous 12-month period.

Substitution of Accrued Paid Leave

The School District will allow the substitution of paid leave accrued for unpaid FMLA leave time for the following circumstances:

- a. Accrued vacation, personal, or sick leave may be substituted for the unpaid FMLA leave in the case of the birth or adoption of a child or to care for a sick family member.
- b. Accrued vacation, personal, sick leave, and/or sick leave bank credits, if awarded, may be substituted for unpaid FMLA leave when leave is taken for the employee's own illness.
- c. In no case can use of leave be credited as FMLA leave after leave has ended.

Retention of Health Benefits

While any employee is on FMLA leave, the School District will continue to provide Health Care and Dental coverage, so long as the employee continues to pay his/her portion of the premium/s. An employee who is on unpaid status must pay his/her share of the monthly health care premium by the 30th day of the month prior to the month for which the premium is due.

The School District's obligation to maintain health and dental insurance coverage ceases if any employee's share of the premium is more than 30 days late.

Maintaining Benefits other than Health Care

When an employee is on unpaid FMLA leave for more than 10 calendar days, he/she will not accrue benefits, for example, vacation, sick leave, personal leave, etc.

If any employee is using accrued time off for a paid FMLA leave, all benefits that normally would be continued during a paid leave will be continued. FMLA leave time is considered continued service for purposes of pension vesting and seniority.

Right to Reinstatement

An employee is entitled to be reinstated to his/her previous job or to an equivalent position, with the same pay, benefits and working conditions, including privileges, prerequisites, and status.

An employee on FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Therefore, an employee whose position is eliminated (due to a reduction in force), while he/she is on FMLA leave, is not entitled to be reinstated upon completion of the FMLA leave.

If an employee is granted an unpaid leave, which extends beyond the period of FMLA leave, the employee will be subject to the provisions of the applicable bargaining agreement or Board policy with respect to reinstatement.

Designation of FMLA Leave

It is the School District's responsibility and right to designate leave as FMLA leave. The Human Resource Department may request and obtain sufficient information from the employee to determine whether the leave qualifies as FMLA leave.

Once the Human Resource Department has determined that leave qualifies as FMLA leave, the employee will be notified that the leave will be counted towards the employee's FMLA leave entitlement. Also, the Human Resource Department will advise the employee of his/her obligations as well as the consequences of failing to meet such obligations.

Duty of Employee to Give Notice

An employee is required to give at least 30 days advanced notice, to his/her supervisor or Department Head, whenever the leave is foreseeable.

In cases where the leave is foreseeable, the District may deny FMLA leave until the required notices period elapses.

In the case of unforeseen leave, the employee is required to give notice as soon as possible, to his/her supervisor or Department Head, usually within one or two days of becoming aware of the need for Family Medical Leave.

When planning medical treatment, the employee is required to make a reasonable effort to schedule the leave so as not to unduly disrupt the District operations.

Serious Health Condition

An employee is entitled to take FMLA leave if he/she suffers from a serious health condition that prevents him/her from performing the functions of his//her job, or if he/she is needed to care for a family member with a serious health condition. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves:

Any period of incapacity or treatment connected with inpatient care, for example, an overnight stay in a hospital, hospice, or residential medical care facility; or

Any period of incapacity requiring absence of more than 3 calendar days from work, school, or other regular daily activities, and which also involves continuing treatment (or under the supervision of) a health care provider; or

Prenatal care, complications with pregnancy, giving birth, recovery from birth; or

Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that if left untreated would likely result in a period of incapacity of more than 3 calendar days.

Note: Questions about what illnesses are covered under this policy should be directed to the Human Resource Department.

Medical Certification

If the requested leave is to care for a spouse, child or parent who has serious health condition, the employee will be required to file with the Human Resource Department, within 3 days, a health care provider's statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that the employee is needed for such care.

If the requested leave is because of a serious health condition of the employee, which renders him/her unable to perform the function of his/her position, the employee will be required to file with the Human Resource Department, a health care provider's statement with an estimate of the amount of time the employee will be out.

The Human Resource Department also requires periodic re-certification (every 30-calendar days) of the employee's or family member's serious health condition during the course of the employee's medical leave.

Fitness-For-Duty Certification

When an employee who has been on FMLA leave (due to his/her serious health condition) is ready to return to work, the Human Resource Department will require a fitness-for-duty certification, signed by the employee's health care provider, prior to the start of work, stating the employee is able to work.

If the employee decides not to return to work at the end of his/her FMLA medical leave because he/she has not recovered from his/her serious health condition, the Human Resource Department may verify that the employee is unable to return to work by requesting another medical certification.

Employee's Notice of NO Intent to Return to Work

If an employee unequivocally advises us that he/she does not intend to return to work, or fails to return to work (without having been granted additional leave), without good reason, at the conclusion of the FMLA medical leave, the employment relationship is deemed terminated, and the employee's entitlement to reinstatement, continued leave, and health benefits (subject to COBRA) ceases. Also, the School District is entitled to recover its cost of the health care premium (while on unpaid leave) directly from the employee.

Spouses Employed by the School District

A husband and wife who are both employed by the District and eligible for FMLA leave are permitted to take 12 weeks each of FMLA leave for a qualifying event in a 12 month period.

Workers Compensation Absences

An employee on worker's compensation leave will have that time charged against his/her 12 week unpaid FMLA entitlement if the employee's illness/injury qualifies as a serious health condition.

Please contact the Human Resource Department if you have any questions concerning FMLA leave, or if you would like to obtain request or certification forms.

LONDONDERRY SCHOOL BOARD

Adopted: March 24, 1998

Amended: April 13, 2004