

## **Federally-Mandated Family and Medical Leave Act**

This policy shall apply to all family and medical leaves of absence covered under the Family and Medical Leave Act of 1993 ("FMLA"). Terms used in this policy and its accompanying regulation, such as "serious health condition," "qualifying exigency," "covered active duty," "covered service member," and "serious injury" or "illness" shall be as defined by the FMLA and its implementing regulations.

### **Eligibility**

To be eligible for a family and medical leave of absence (FMLA leave) under this policy, an employee shall have been employed for at least 12 months and shall have worked at least 1,250 hours during the 12-month period preceding the commencement of the leave. A full-time classroom teacher shall be deemed to meet the hourly requirement but must also meet the 12-month requirement to be eligible for FMLA leave.

### **Permitted reasons for FMLA leave**

An eligible employee shall be entitled to a combined total of 12 weeks' leave per year for the following reasons:

1. The birth and care of the employee's newborn child;
2. The placement of a child with the employee for adoption or foster care;
3. To care for the employee's spouse parent or child with a serious health condition;
4. When the employee is unable to perform the essential functions of his or her position because of the employee's own serious health condition; or
5. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty in the Armed Forces.

Spouses who are both employed by the district shall be entitled to a total of 12 weeks of leave (rather than 12 weeks each) per year for reasons (1), (2), to care for a sick parent under reason (3) and/or (5) specified in the immediately preceding paragraph.

Entitlement for child care leave shall end after the child reaches the age one or 12 months after adoption or foster placement. Leave to care for a child shall include leave for a step-parent or person *in loco parentis*.

An eligible employee who is a spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness incurred or aggravated in the line of duty

on active duty shall be entitled to a total of 26 weeks of leave during a single 12-month period to care for the covered service member.

The single 12-month period shall begin on the first day the employee takes leave for this reason and shall end 12 months later. During that 12-month period, the eligible employee is entitled to a combined total of 26 weeks of leave under this policy. Only 12 weeks of the 26 week total may be for a FMLA-qualifying reason other than to care for a covered service member.

Spouses who are both employed by the district shall be entitled to a total of 26 weeks (rather than 26 weeks each) in a single 12-month period if the leave is to care for a covered service member with a serious injury or illness, or a combination of caring for a covered service member and reasons (1), (2), (3) and/or (4) above.

### **Intermittent or reduced FLMA leave**

Leave may be taken on an intermittent or reduced leave schedule. The district may require the employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule provided that the position has equivalent pay or benefits. Teachers requesting intermittent or reduced leave involving greater than 20 percent of their working time during such period may, in the alternative, be required to take leave continuously for all or a specified part of the total period involved.

Intermittent leave or leave on a reduced schedule shall not be allowed because of the birth of an employee's child and to care for a newborn child, or because of the placement of a child with an employee for adoption or foster care.

### **Health insurance and benefits**

The district shall maintain coverage under any group health insurance plan for any employee who is granted an approved leave of absence under this policy for the duration of the leave. Such coverage shall be maintained at the same level and under the same conditions as coverage would have been provided if the employee were not on leave. The district reserves the right to seek reimbursement for this benefit in the event that an employee elects not to return to work, as allowed by law.

The use of FMLA leave shall not result in the loss of any employment benefit that accrued prior to the start of the FMLA leave.

### **Reinstatement after FMLA leave**

Reinstatement shall be determined in accordance with applicable law and Board policies [optional language-and/or negotiated agreements]. If the employee on leave is a salaried employee and is among the highest paid 10 percent of district employees within 75 miles of the location at which the employee is employed and keeping the job

open for the employee would result in substantial economic injury to the district, the employee may be denied reinstatement provided the district notifies the employee of its intent to deny reinstatement at the time economic hardship occurs and the employee elects not to return to work after receiving the notice.

### **Development of procedures**

The Superintendent shall develop procedures to require appropriate medical certifications, notification and reporting which are consistent with law. The procedures shall describe how the district will post notices concerning the FMLA and other steps the district shall take to inform employees of the FMLA's requirements.

### **Compliance with governing law**

The district shall fully comply with the FMLA and shall be entitled to take all actions and exercise all options authorized under the FMLA and consistent with this policy and its accompanying regulation. In the event that this policy or its accompanying regulation conflict or are otherwise inconsistent with mandatory provisions of the FMLA, the mandatory provisions of the FMLA shall control.

ADOPTED: April 2018

REVISED: April 2023

LEGAL REFS.: 29 U.S.C. 2601 *et seq.* (Family and Medical Leave Act of 1993)  
29 C.F.R. Part 825 (regulations)  
29 C.F.R. § 825.104 (public as well as private elementary and secondary school are covered employers)

CROSS REFS.: GBGE, Staff Maternity/Paternity/Paternal Leave  
GBGG, Staff Paid Time Off (PTO)  
GBGK, Staff Legal Leave

*NOTE 1: The Family and Medical Leave Act (FMLA) provides that the district shall not be in violation of other federal laws such as those governing the district's responsibility to educate children with disabilities solely as the result of an eligible employee taking family medical leave.*

*NOTE 2: The FMLA applies to all educational institutions, including school districts. However, an employee is only eligible for family and medical leave if he or she is employed at a worksite where at least 50 employees are employed within 75 miles.*

*NOTE 3: For FMLA Fact Sheets, medical certification forms, request for leave forms and other information on the FMLA, visit the U.S. Department of Labor's Wage and Hour Division Website: <http://www.wagehour.dol.gov> or call the U.S. Department of Labor's toll-free information and helpline, 1-866-4USWAGE (1-866-487-9243).*

*NOTE 4: Colorado's "Family Care Act" (FCA) entitles employees to take 12 weeks' unpaid leave to care for the employee's "partner in a civil union" or "domestic partner" with a "serious health condition." C.R.S. 8-13.3-201 et seq. Leave taken under the FCA is in addition to the leave an employee may take under the FMLA. The district should consult with its own legal counsel to ensure compliance with the FCA and FMLA.*

*NOTE 5: Colorado's Paid Family and Medical Insurance Act (FAMLI) provides eligible employees partial wage replacement for 12-16 weeks of leave, depending on the circumstances. This program is optional, but school districts may elect to participate. C.R.S. 8-13.3-501. Districts should consult with legal counsel regarding compliance with FAMLI should the district choose to participate.*