



**Section:** *Classified Employees*

**Title:** *Family and Medical Leaves*

**Adopted:** *9-1-09*

**Revised:**

## **541 Family and Medical Leaves**

The purpose of this policy is to address certain leave-of-absence issues and to ensure the Colonial School District's compliance with the Family and Medical Leave Act.

Pursuant to the provisions of the Family and Medical Leave Act, the Board directs the Superintendent to implement regulations providing appropriate family and medical leave for all eligible employees.

To the extent that this policy employs terms which are defined in the Family and Medical Leave Act or in the regulations interpreting it, those definitions are incorporated into this policy.

### Eligible Employees

This policy shall be applicable to all employees who have been employed by the district for at least twelve (12) months and who had at least 1,250 hours of service with the district during the previous 12-month period prior to the commencement of the leave.

### Reasons For Leave

The district shall grant family and medical leave for any of the following reasons:

1. Birth, adoption or foster placement of a child with the employee; leave for this purpose must end within one (1) year after the birth or placement.
2. Caring for a spouse, parent or child due to a serious health condition.
3. Serious health condition of the employee; a condition that would make the employee unable to perform regular job functions.

4. Care of a covered servicemember, which is defined as a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, when the eligible employee is the spouse, son, daughter, parent, or next of kin (i.e., nearest blood relative) of the covered servicemember; or any qualifying exigency, as defined by the Department of Labor, arising out of the fact that the employee's parent, child, or spouse is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces in support of a contingency operation.

A serious health condition is an illness, injury, impairment, or physical or mental condition that causes a period of incapacity resulting in:

1. The need for inpatient care in a hospital, hospice, or medical care facility.
2. Absence from work, school, or other regular activities for more than three (3) calendar days and requires continuing treatment or supervision by a health care provider.
3. The need for continuing treatment or supervision by a health care provider for a condition so serious that if not treated would likely result in a period of incapacity of more than three (3) calendar days.
4. The need for continuing treatment or supervision by a health care provider for prenatal care.

The following is a list of conditions or illnesses that are considered by the district to be generally serious health conditions for the purposes of this policy that will entitle an eligible employee to leave under the law. This list is not meant to be inclusive:

1. A serious injury or illness in the case of a covered servicemember means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. Heart attacks or heart conditions requiring bypass surgery.
3. Most cancers.
4. Back conditions requiring extensive therapy or surgery.
5. Spinal injuries.
6. Appendicitis.
7. Pneumonia.

8. Severe arthritis.
9. Severe nervous disorders.
10. Pregnancy, miscarriages, complications, or illnesses relating to pregnancy (e.g., severe morning sickness), and need for parental care.
11. Childbirth and recovery from childbirth.
12. A parent or spouse suffering from Alzheimer's Disease or clinical depression.

#### Application For Leave

The employee must provide at least thirty (30) days notice of a foreseeable leave due to the expected birth or placement of a child, for treatment of a serious health condition, or to care for an eligible family member. A reasonable effort should be made to schedule planned medical treatment so as not to disrupt unduly the operations of the district. The employee must submit a completed Request for Family and Medical Leave form and the appropriate medical documentation to the Personnel Office. When advance notice is not practical, the employee should provide verbal notification to the Personnel Office within one (1) or two (2) days when the need for leave becomes known. The employee will then submit a completed Request for Family and Medical Leave form and the appropriate medical documentation.

#### Length Of Leave

Eligible employees may take family and medical leave in full-week increments, up to twelve (12) consecutive weeks, or up to twenty-six (26) consecutive weeks in the event the leave is taken to care for a covered servicemember. Employees also may take intermittent or reduced schedule family and medical leave where medically necessary for a serious health condition of the employee or a sick family member, or to care for a covered servicemember.

In addition, employees may take intermittent or reduced schedule leave in connection with any qualifying exigency, as defined above, or, where otherwise not medically necessary, with the district's approval.

If an employee takes intermittent or reduced schedule family and medical leave for the serious health condition of the employee or a sick family member, or to care for a covered servicemember, the district may require that the employee transfer temporarily to an alternative position so as to not unduly disrupt the district's operations while the employee is on an intermittent or reduced schedule.

Intermittent or reduced schedule family and medical leave may not be taken in increments of less than one (1) hour. Leave time taken by an employee on an

intermittent or reduced schedule is calculated as a percentage of the employee's normal workweek. Therefore, an employee who normally works thirty (30) hours per week and takes ten (10) hours of family and medical leave in one (1) week will have used one-third (1/3) of a workweek of family and medical leave.

For employees who work variable hours, the normal workweek will be determined by the average hours per week worked by the employee during the twelve (12) weeks prior to the start of the employee's leave.

If both spouses are employed by the district, each spouse shall be entitled to FMLA rights.

### Benefits During Leave

The Board shall maintain the same level of group health plan benefit as if the employee on family and medical leave had continued in employment continuously for the duration of such leave. Employee copayments for health plan benefits will continue to be paid by the employee during the leave.

If an employee fails to return to work at the conclusion of his/her family and medical leave, the district reserves the right to recover from the employee amounts it paid for health insurance during the leave if the employee fails to return because of the serious health condition of the employee; the employee's spouse, child, or parent; or for reasons beyond the employee's control. If an employee fails to return to work, the district will require the employee to provide medical certification attesting to the inability to return to work within fifteen (15) days.

### Substitution Of Paid Leave For FMLA Leave

Leaves granted for FMLA purposes are generally unpaid. The administrative procedures on FMLA leave provides specific guidelines for the one exception where paid FMLA is permitted. The employee's earned sick days must be applied towards any FMLA designated paid leave time.

### Certification Of Serious Health Conditions And Fitness For Work

The employee must provide medical certification supporting the need for leave due to the employee's own serious health condition or an immediate family member on a form to be provided by the district.

The district may, at its discretion and expense, require a second medical opinion. If the first and second medical opinions differ, the district, at its own expense, may require the opinion of a third health care provider regarding the need for leave due to a serious health condition. The district will deny leave until the required certification is supplied.

The employee must provide recertification of medical conditions every thirty (30) days or more frequently at the discretion of the district, as allowed by the Family and Medical Leave Act.

When an employee takes FMLA leave because of his/her own serious health condition, as such condition is defined in the law, the district shall require the employee to obtain medical certification from a health care provider that the employee is able to return to work. Specific notice of a fitness for duty medical certification shall be provided to the employee at the time a leave is requested for a serious medical condition. The district will deny reinstatement until the requested certification is provided.

#### Reinstatement From Leave

At the conclusion of FMLA leave, the employee shall be restored to his/her original position with equivalent pay, benefits, and other employment terms as if s/he had not taken such leave or to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.

#### Special Limitations Of FMLA For Instructional Employees

When leave is taken near the end of the academic term, the district may require the instructional employee to continue his/her FMLA leave to the end of the term if:

1. The leave begins more than five (5) weeks before the term's end, will last at least three (3) weeks, and the employee would return to work within three (3) weeks of the end of the term.
2. The leave is for a purpose other than the employee's serious health condition, begins during the five (5) week period before semester's end, will last more than two (2) weeks, and the employee would return during the two (2) week period before the end of the term.
3. The leave is for a purpose other than the employee's own serious health condition, begins during the three (3) week period before the end of a term, and will last more than five (5) days.

The entire period of leave taken counts as FMLA leave. However, if the annual FMLA leave entitlement of an employee who is required to take leave until the end of an academic year ends before the leave is completed, the district will still maintain health benefits, reinstate the employee, and provide all other Family and Medical Leave Act entitlements when the leave ends.

If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule based on foreseeable planned medical treatment, and if the employee would be on leave for more than twenty percent (20%) of the total number of working

days over the period of the leave, then the district may require the employee to choose either:

1. To take leave for a period or periods not greater than the duration of the planned treatment.
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.

#### Compliance With The FMLA

This policy is intended to comply with the requirements of the Family and Medical Leave Act. To the extent that it fails to do so, the provisions of the Family and Medical Leave Act shall prevail.

#### References:

- Family And Medical Leave Act – 29 U.S.C. Sec. 2601 et seq.
- Family And Medical Leave, Title 29, Code of Federal Regulations – 29 CFR Part 825
- Board Policy – 000, 813

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