Document Status: Review and Monitoring

General Personnel

5:185 Family and Medical Leave

Leave Description

An eligible employee may use unpaid family and medical leave (FMLA leave), guaranteed by the federal Family and Medical Leave Act. The U.S. Department of Labor's rules (federal rules) implementing FMLA, as they may be amended from time to time, control FMLA leave.

An eligible employee may take FMLA leave for up to a combined total of 12 weeks each 12-month period, beginning September 1 and ending August 31 of the next year.

During a single 12-month period, an eligible employee's FMLA leave entitlement may be extended to a total of 26 weeks of unpaid leave to care for a covered servicemember (defined in the federal rules) with a serious injury or illness. The "single 12-month period" is measured forward from the date the employee's first FMLA leave to care for the covered servicemember begins.

While FMLA leave is normally unpaid, the District will substitute an employee's accrued paid leave for unpaid FMLA leave, provided such leave is available for use in accordance with Board policies and rules. In addition, all policies and rules regarding the use of paid leave apply when paid leave is substituted for unpaid FMLA leave. Any substitution of paid leave for unpaid FMLA leave will count against the employee's FMLA leave entitlement. Use of FMLA 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 FMLA leave shall not serve to extend such other unpaid leave. Any full workweek period during which the employee would not have been required to work, including summer break, winter break and spring break, is not counted against the employee's FMLA leave entitlement.

FMLA leave is available in one or more of the following instances:

1. The birth and first-year care of a child.
2. The adoption or foster placement of a child, including absences from work that are necessary for the adoption or foster care to proceed and expiring at the end of the 12-month period beginning on the placement date.
3. The serious health condition of an employee's spouse, child, or parent.
4. The employee's own serious health condition that makes the employee unable to perform the functions of their job.
5. The existence of a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered

active duty or has been notified of an impending call or order to active duty, as provided by federal rules.

6. To care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness, as provided by federal rules.

If spouses are employed by the District, they may together take only 12 weeks for FMLA leaves when the reason for the leave is 1 or 2, above, or to care for a parent with a serious health condition, or a combined total of 26 weeks for item 6 above.

An employee may be permitted to work on an intermittent or reduced-leave schedule in accordance with federal rules.

Eligibility

To be eligible for FMLA leave, both of the following provisions must describe the employee:

1. The employee is employed at a worksite where at least 50 employees are employed within 75 miles; and
2. The employee has been employed by the District for at least 12 months and has been employed for at least 1,000 hours of service during the 12-month period immediately before the beginning of the leave. The 12 months an employee must have been employed by the District need not be consecutive. However, the District will not consider any period of previous employment that occurred more than seven years before the date of the most recent hiring, except when the service break is due to fulfillment of a covered service obligation under the employee's Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. 4301, *et seq*., or when a written agreement exists concerning the District's intention to rehire the employee.

Requesting Leave

If the need for the FMLA leave is foreseeable, an employee must provide the Superintendent or designee with at least 30 days' advance notice before the leave is to begin. If 30 days' advance notice is not practicable, the notice must be given as soon as practicable. The employee shall make a reasonable effort to schedule a planned medical treatment so as not to disrupt the District's operations, subject to the approval of the health care provider administering the treatment. The employee shall provide at least verbal notice sufficient to make the Superintendent or designee aware that they needs FMLA leave, and the anticipated timing and duration of the leave. Failure to give the required notice for a foreseeable leave may result in a delay in granting the requested leave until at least 30 days after the date the employee provides notice.

Certification

Within 15 calendar days after the Superintendent or designee makes a request for certification for a FMLA leave, an employee must provide one of the following:

1. When the leave is to care for the employee's covered family member with a serious health condition, the employee must provide a complete and sufficient certificate signed by the family member's health care provider.
2. When the leave is due to the employee's own serious health condition, the employee must provide a complete and sufficient certificate signed by the employee's health care provider.
3. When the leave is to care for a covered servicemember with a serious illness or injury, the employee must provide a complete and sufficient certificate signed by an authorized health care provider for the covered servicemember.
4. When the leave is because of a qualified exigency, the employee must provide: (a) a copy of the covered military member's active duty orders or other documentation issued by the military indicating that the military member is on active duty or call to active duty status, and the dates of the covered military member's active duty service, and (b) a statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested.

The District may require an employee to obtain a second and third opinion at its expense when it has reason to doubt the validity of a medical certification.

The District may require recertification at reasonable intervals, but not more often than once every 30 days. Regardless of the length of time since the last request, the District may request recertification when the, (1) employee requests a leave extension, (2) circumstances described by the original certification change significantly, or (3) District receives information that casts doubt upon the continuing validity of the original certification. Recertification is at the employee's expense and must be provided to the District within 15 calendar days after the request. The District may request recertification every six months in connection with any absence by an employee needing an intermittent or reduced schedule leave for conditions with a duration in excess of six months.

Failure to furnish a complete and sufficient certification on forms provided by the District may result in a denial of the leave request.

Continuation of Health Benefits

During FMLA leave, employees are entitled to continuation of health benefits that would have been provided if they were working. Any share of health plan premiums being paid by the employee before taking the leave, must continue to be paid by the employee during the FMLA leave. A District's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late and the District notifies the employee at least 15 days before coverage will cease.

Changed Circumstances and Intent to Return

An employee must provide the Superintendent or designee reasonable notice of changed circumstances (i.e., within two business days if the changed circumstances are foreseeable) that will alter the duration of the FMLA leave. The Superintendent or designee, taking into consideration all of the relevant facts and circumstances related to an individual's leave situation, may ask an employee who has been on FMLA leave for eight consecutive weeks whether he or she intends to return to work.

Return to Work

If returning from FMLA leave occasioned by the employee's own serious health condition, the employee is required to obtain and present certification from the employee's health care provider that they are able to resume work.

An employee returning from FMLA leave will be given an equivalent position to their position before the leave, subject to: (1) permissible limitations the District may impose as provided in the FMLA or implementing regulations, and (2) 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 the FMLA regulations.

Implementation

The Superintendent or designee shall ensure that: (1) all required notices and responses to leave requests are provided to employees in accordance with the FMLA; and (2) this policy is implemented in accordance with the FMLA. In the event of a conflict between the policy and the FMLA or its regulations, the latter shall control. The terms used in this policy shall be defined as in the FMLA regulations.

Conflict with Collective Bargaining Agreements

For employees covered by a Collective Bargaining Agreement ("CBA"), to the extent any provision of this policy conflicts with the applicable CBA, the terms of the CBA shall govern.

LEGAL REF.:

29 U.S.C. §2601 *et seq*., Family and Medical Leave Act; 29 C.F.R. Part

825. 105 ILCS 5/24-6.4.