

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4101 Non-Discrimination

A. Equal Employment Opportunity

The District is committed to equal employment opportunity and compliance with federal, state, and local laws that prohibit workplace ~~discrimination, Unlawful Discrimination, including~~ unlawful harassment, and ~~unlawful retaliation~~ Retaliation, based on any protected class or activity. This Policy applies to all aspects of employment, including recruiting, advertising, hiring, training, job placement, evaluation, classification, promotion, transfer, work assignment, compensation, benefits, discipline, demotion, termination, reduction in force, recall, and any other term or condition of employment.

This Policy prohibits discrimination against employees or applicants for employment based on the following protected classes: race, color, national origin, ethnicity, religion, sex (including pregnancy or related conditions, gender identity, and/or sexual orientation), height, weight, marital status, age, disability, genetic information, veteran status, military service, or any other legally protected class. This Policy also prohibits ~~unlawful retaliation~~ Retaliation based on a protected activity.

The District prohibits unlawful employment discrimination as required by applicable civil rights statutes, including:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, or national origin;
- Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, sex (including gender identity, and sexual orientation), or national origin;
- Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including gender identity and sexual orientation);
- Age Discrimination in Employment Act of 1967 (ADEA), which prohibits discrimination based on age as to persons who are at least 40 years old;
- Equal Pay Act of 1963, which prohibits sex discrimination in payment of wages for persons performing substantially equal work in the same establishment;
- Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits discrimination based on disability;

- Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination against qualified persons with disabilities in employment, public service, public accommodations, and telecommunications;
- ~~Family and Medical Leave Act of 1993 (FMLA), which requires covered employers to provide up to 12 work weeks of unpaid, job-protected leave to eligible employees for certain family, military, and medical reasons, and up to 26 work weeks to care for a covered service member with a serious injury or illness;~~
- Pregnancy Discrimination Act of 1978, which prohibits discrimination based on pregnancy, childbirth, or related medical conditions;
- Pregnant Workers Fairness Act (PWFA), which requires covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause an undue hardship.
- Genetic Information Non-Discrimination Act of 2008 (GINA), which prohibits discrimination based on genetic information as to health insurance and employment;
- ~~Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), which provides job protection and reemployment rights to individuals who voluntarily or involuntarily leave employment to undertake military service, including military reservists and National Guard members called to duty;~~
- Michigan Elliott-Larsen Civil Rights Act of 1976 (ELCRA), which prohibits discrimination based on race, color, national origin, age, sex, pregnancy, sexual orientation, gender identity or expression, religion, height, weight, or marital status;
- Michigan Persons with Disabilities Civil Rights Act of 1976 (MPDCRA), which prohibits discrimination against qualified persons based on disability that is unrelated to that person's ability to perform the duties of a particular position or genetic information; and
- Michigan Equal Pay Act, which prohibits discriminatory wage practices based on sex;.
- The District also complies with and prohibits employment action that violates the following statutes:
 - Family and Medical Leave Act of 1993 (FMLA), which requires covered employers to provide up to 12 work weeks of unpaid, job-protected leave to eligible employees for certain family, military, and medical reasons, and up to 26 work weeks to care for a covered service member with a serious injury or illness;

- Michigan Paid Medical Leave Act of 2018 (PMLA), which provides eligible employees paid medical leave for certain reasons;
- Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), which provides job protection and reemployment rights to individuals who voluntarily or involuntarily leave employment to undertake military service, including military reservists and National Guard members called to duty;
- Public Employment Relations Act of 1947 (PERA), which prohibits a public employer from discriminating against an employee based on membership or non-membership in a labor organization;
- Fair Labor Standards Act of 1938 (FLSA), which establishes minimum wage, overtime pay, record keeping, and youth employment standards affecting employees; and
- Michigan Whistleblower Protection Act of 1980, which protects employees who report a violation or suspected violation of state, local, or federal law and employees who participate in hearings, investigations, or court actions.

B. Reporting Requirements

Any employee who believes he/she has been subjected to behavior that violates this Policy ~~must~~ is encouraged to file a complaint ~~using the Employment Complaint Procedure in Policy 4104. If Title IX sexual harassment is alleged, promptly with a supervisor. A complaint implicating an individual's civil rights will be investigated pursuant to the procedures set forth outlined in Policy 3118 should be followed 4104 and 3115-3115H.~~

Employees with questions about compliance with this Policy and applicable laws should contact the Superintendent or the Employment Compliance Officer(s-) identified in Policy 3115B.

Board members, administrators, and supervisors must promptly report incidents of ~~unlawful discrimination~~ Unlawful Discrimination and ~~retaliation. This duty to report applies to unlawful discrimination and retaliation~~ Retaliation that the Board member, administrator, or supervisor he/she observes or about which he/she receives information.

Board members, administrators, or supervisors who receive a complaint alleging a violation of this Policy must promptly report the complaint, in writing, to the Employment Compliance Officer(s-) identified in Policy 3115B.

A failure to comply with reporting requirements may result in discipline, including discharge.

C. Employment Discrimination Compliance Training

The District will train administrators, supervisors, and the Employment Compliance Officer(s) on how to address and investigate ~~discrimination~~Unlawful Discrimination and ~~retaliation~~Retaliation complaints.

The District may also provide ~~discrimination~~Unlawful Discrimination and ~~retaliation~~Retaliation training to Board members and employees.

Training may be provided by an outside entity or person approved by the District.

Legal authority: 20 USC 1681 et seq.; 29 USC 206 et seq., 701 et seq., 2601 et seq.; 38 USC 4301 et seq.; 42 USC 2000d et seq., 2000e et seq., 2000ff et seq., 12101 et seq.; H.R. 2617-1626, 117th Cong. § 103(1) (signed into law December 29, 2022); MCL 37.1101 et seq., 37.2101 et seq.; MCL 423.201 et seq.; MCL 750.556; 34 CFR 106.1 et seq.

Date adopted:

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4101 Non-Discrimination

A. Equal Employment Opportunity

The District is committed to equal employment opportunity and compliance with federal, state, and local laws that prohibit workplace Unlawful Discrimination, including unlawful harassment and Retaliation, based on any protected class or activity. This Policy applies to all aspects of employment, including recruiting, advertising, hiring, training, job placement, evaluation, classification, promotion, transfer, work assignment, compensation, benefits, discipline, demotion, termination, reduction in force, recall, and any other term or condition of employment.

This Policy prohibits discrimination against employees or applicants for employment based on the following protected classes: race, color, national origin, ethnicity, religion, sex (including pregnancy or related conditions, gender identity, or sexual orientation), height, weight, marital status, age, disability, genetic information, veteran status, military service, or any other legally protected class. This Policy also prohibits Retaliation based on a protected activity.

The District prohibits unlawful employment discrimination as required by applicable civil rights statutes, including:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, or national origin;
- Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, sex (including gender identity, and sexual orientation), or national origin;
- Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including gender identity and sexual orientation);
- Age Discrimination in Employment Act of 1967 (ADEA), which prohibits discrimination based on age as to persons who are at least 40 years old;
- Equal Pay Act of 1963, which prohibits sex discrimination in payment of wages for persons performing substantially equal work in the same establishment;
- Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits discrimination based on disability;

- Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination against qualified persons with disabilities in employment, public service, public accommodations, and telecommunications;
- Pregnancy Discrimination Act of 1978, which prohibits discrimination based on pregnancy, childbirth, or related medical conditions;
- Pregnant Workers Fairness Act (PWFA), which requires covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause an undue hardship.
- Genetic Information Non-Discrimination Act of 2008 (GINA), which prohibits discrimination based on genetic information as to health insurance and employment;
- Michigan Elliott-Larsen Civil Rights Act of 1976 (ELCRA), which prohibits discrimination based on race, color, national origin, age, sex, pregnancy, sexual orientation, gender identity or expression, religion, height, weight, or marital status;
- Michigan Persons with Disabilities Civil Rights Act of 1976 (MPDCRA), which prohibits discrimination against qualified persons based on disability that is unrelated to that person's ability to perform the duties of a particular position or genetic information; and
- Michigan Equal Pay Act, which prohibits discriminatory wage practices based on sex.

The District also complies with and prohibits employment action that violates the following statutes:

- Family and Medical Leave Act of 1993 (FMLA), which requires covered employers to provide up to 12 work weeks of unpaid, job-protected leave to eligible employees for certain family, military, and medical reasons, and up to 26 work weeks to care for a covered service member with a serious injury or illness;
- Michigan Paid Medical Leave Act of 2018 (PMLA), which provides eligible employees paid medical leave for certain reasons;
- Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), which provides job protection and reemployment rights to individuals who voluntarily or involuntarily leave employment to undertake military service, including military reservists and National Guard members called to duty;

- Public Employment Relations Act of 1947 (PERA), which prohibits a public employer from discriminating against an employee based on membership or non-membership in a labor organization;
- Fair Labor Standards Act of 1938 (FLSA), which establishes minimum wage, overtime pay, record keeping, and youth employment standards affecting employees; and
- Michigan Whistleblower Protection Act of 1980, which protects employees who report a violation or suspected violation of state, local, or federal law and employees who participate in hearings, investigations, or court actions.

B. Reporting Requirements

Any employee who believes he/she has been subjected to behavior that violates this Policy is encouraged to file complaint promptly with a supervisor. A complaint implicating an individual's civil rights will be investigated pursuant to the procedures outlined in Policy 4104 and 3115-3115H.

Employees with questions about compliance with this Policy and applicable laws should contact the Superintendent or the Employment Compliance Officer(s) identified in Policy 3115B.

Board members, administrators, and supervisors must promptly report incidents of Unlawful Discrimination and Retaliation that he/she observes or about which he/she receives information.

Board members, administrators, or supervisors who receive a complaint alleging a violation of this Policy must promptly report the complaint, in writing, to the Employment Compliance Officer(s) identified in Policy 3115B.

A failure to comply with reporting requirements may result in discipline, including discharge.

C. Employment Discrimination Compliance Training

The District will train administrators, supervisors, and the Employment Compliance Officer(s) on how to address and investigate Unlawful Discrimination and Retaliation complaints.

The District may also provide Unlawful Discrimination and Retaliation training to Board members and employees.

Training may be provided by an outside entity or person approved by the District.

Legal authority: 20 USC 1681 et seq.; 29 USC 206 et seq., 701 et seq., 2601 et seq.; 38 USC 4301 et seq.; 42 USC 2000d et seq., 2000e et seq., 2000ff et seq., 12101 et seq.; H.R. 2617-1626, 117th Cong. § 103(1) (signed into law December 29, 2022); MCL 37.1101 et seq.,

37.2101 et seq.; MCL 423.201 et seq.; MCL 750.556; 34 CFR 106.1 et seq.

Date adopted: August 15, 2022

Date revised: August 19, 2024

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4102 ~~Anti-Harassment, Including Sexual Harassment~~

A. Policy Statement

Employees will have the opportunity to work in an atmosphere free from unlawful harassment, ~~including sex-based harassment~~, as defined by state, federal, and local laws. ~~The District prohibits quid pro quo and hostile work environment harassment.~~

The District will promptly and thoroughly investigate complaints ~~pursuant to Policy 4104~~ alleging unlawful harassment and take appropriate action, including discipline, against any person found to have ~~violated this Policy. Investigation determinations will be based on a preponderance of the evidence engaged in unlawful harassment.~~

~~Unlawful harassment is strictly prohibited. This Policy applies to employee conduct perpetrated against other employees, parents/guardians, officers, Board members, agents, contractors, volunteers, and members of the public. Although Title VII sexual harassment falls within this Policy, Title IX sexual harassment does not. For the District's Policy on Title IX sexual harassment, see Policy 3118. Allegations that an employee engaged in unlawful discrimination, harassment, or retaliation against a student will be investigated under Policy 5202.~~

~~This Policy applies to unlawful conduct related to work in any way, regardless of location.~~

~~D. Unlawful Employment Harassment Definition~~

~~Except with regard to Title IX sexual harassment, the following definitions apply:~~

~~0. "Quid pro quo" harassment occurs when a supervisor requires sex, sexual favors, or sexual contact from an employee or job candidate as a condition of employment and where:~~

~~— submission to that conduct or communication is made a term or condition, either explicitly or implicitly, to obtain or maintain employment; or~~

~~— submission to or rejection of that conduct or communication is used as a factor in a decision affecting a person's employment.~~

~~0. "Hostile work environment" harassment is unwelcome verbal, visual/written, or physical conduct towards an employee because of the employee's race, color, national origin, ethnicity, religion, sex (including pregnancy), height, weight, marital status, gender identity or expression, age, sexual orientation, disability, genetic information, veteran status, military service, or any other protected class and that has:~~

- ~~the purpose or effect of creating an intimidating, hostile, or offensive work environment;~~
- ~~the purpose or effect of unreasonably interfering with an employee's work;~~
or
- ~~an adverse impact on a person's employment opportunities.~~

~~Hostile work environment harassment is unlawful where it is based on an employee's protected class and the offensive conduct becomes a condition of continued employment or the conduct is sufficiently severe or pervasive to create a work environment that a reasonable person under the totality of circumstances would consider intimidating, hostile, or offensive.~~

~~Q. Examples of conduct that may constitute unlawful sexual harassment include:~~

- ~~Verbal: Unwelcome comments, including: the use of derogatory, sexually suggestive, or vulgar language; the use of sexual innuendo; unwelcome advances or repeated requests for dates or sexual favors; threats based on or motivated by a person's sex; demanding or pressuring another person to submit to sexual requests or advances to attain academic or professional achievement; threatening another person's academic or professional reputation if that person does not submit to sexual requests or advances; or any other similar behavior.~~
- ~~Visual/Written: Subjecting another person to sexually suggestive, pornographic, or obscene images, text, or cartoons, including by electronic mail, text message, letter, or any other medium; the use of obscene gestures toward or around another person; leering at another person; or any other similar behavior.~~
- ~~Physical: Unwanted kissing, touching, patting, hugging, pinching, or any other unwanted physical contact; impeding another person's normal movements; stalking, assault, or battery based on the victim's sex; any other physical interference with another person based on that person's sex; or any other similar behavior.~~

~~R. Unlawful Retaliation~~

~~Unlawful retaliation against a complainant, witness, or other investigation participant is prohibited. Any person who unlawfully retaliates is subject to discipline, including discharge. A person who knowingly files a materially false complaint or makes a materially false statement is subject to discipline, including discharge.~~

~~B. The District's procedures for investigating unlawful harassment are contained in Policy 3115-3115H.~~

~~T.C. Reporting Requirements~~

Board members, administrators, and supervisors must promptly report incidents of unlawful harassment and ~~retaliation. This duty to report applies to unlawful harassment and retaliation that the Board member, administrator, or supervisor~~Retaliation that he/she observes or about which he/she receives information.

Board members, administrators, or supervisors who receive a complaint alleging a violation of this Policy must promptly report the complaint, in writing, to the Employment Compliance Officer(s)- identified in Policy 3115B.

A failure to comply with reporting requirements may result in discipline, including discharge.

Legal authority: 20 USC 1681 et seq.; 29 USC 621 et seq.; 42 USC 1983, 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1604.1 et seq., 1635; 34 CFR 106.8, ~~106.9;1~~ et seq.; MCL 37.1101 et seq., 37.2101 et seq.; MCL 380.1300a

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4102 *Anti-Harassment*

A. Policy Statement

Employees will have the opportunity to work in an atmosphere free from unlawful harassment as defined by state, federal, and local laws.

The District will promptly and thoroughly investigate complaints alleging unlawful harassment and take appropriate action, including discipline, against any person found to have engaged in unlawful harassment.

- B. The District's procedures for investigating unlawful harassment are contained in Policy 3115-3115H.

C. Reporting Requirements

Board members, administrators, and supervisors must promptly report incidents of unlawful harassment and Retaliation that he/she observes or about which he/she receives information.

Board members, administrators, or supervisors who receive a complaint alleging a violation of this Policy must promptly report the complaint, in writing, to the Employment Compliance Officer(s) identified in Policy 3115B.

A failure to comply with reporting requirements may result in discipline, including discharge.

Legal authority: 20 USC 1681 et seq.; 29 USC 621 et seq.; 42 USC 1983, 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1604.1 et seq., 1635; 34 CFR 106.1 et seq.; MCL 37.1101 et seq., 37.2101 et seq.; MCL 380.1300a

Date adopted: August 15, 2022

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4104 Employment Complaint Procedure for Allegations Implicating Civil Rights

This employment complaint procedure for allegations implicating an employee's civil rights is designed to facilitate: (1) prompt notification of alleged ~~unlawful discrimination~~Unlawful Discrimination, including unlawful ~~Title VII sexual~~ harassment, and ~~retaliation~~Retaliation; (2) a prompt and thorough investigation of good faith allegations; and (3) the implementation of appropriate corrective action, if necessary, to eliminate verified, ~~unlawful discrimination and retaliation~~ Unlawful Discrimination, harassment, and Retaliation from the workplace.

A. Initiating a Complaint

1. A Board member, employee, or employment applicant who believes he/she has been the subject of ~~unlawful discrimination, including unlawful~~Unlawful Discrimination, harassment, or ~~retaliation~~Retaliation, must timely file a complaint, preferably within 10 business days of the alleged or suspected violation or when the reporter obtained knowledge of the alleged or suspected violation, with: the Employment Compliance Officer or applicable coordinator listed in Policy 3115B.

~~[EMPLOYMENT COMPLIANCE OFFICER NAME OR POSITION/TITLE]~~

~~[EMPLOYMENT COMPLIANCE OFFICER ADDRESS]~~

~~[EMPLOYMENT COMPLIANCE OFFICER PHONE NUMBER]~~

~~[EMPLOYMENT COMPLIANCE OFFICER EMAIL]~~

~~[Note - Consider listing 2 people]~~

~~Title IX sexual harassment complaints, including dual Title VII and Title IX harassment complaints that cannot be bifurcated, must be processed under Policy 3118.~~

- ~~8. A complaint against the Employment Compliance Officer(s) must be made to the Superintendent or President. A complaint against the Superintendent must be made to the President. A complaint against the President must be made to the Vice President.~~

- ~~9.2.~~ A complaint of ~~discrimination~~Unlawful Discrimination, including ~~unlawful~~ harassment, or ~~retaliation~~Retaliation, may be made verbally or in writing. The complaint will be memorialized on Form 44043115-F-1.

B. Investigation Procedures

- ~~—~~ A written or verbal report (including an anonymous report) of ~~discrimination~~Unlawful Discrimination, including ~~unlawful~~ harassment, or ~~retaliation~~Retaliation, will be investigated promptly and thoroughly.

- ~~2. An impartial investigator will investigate using the complaint and, if appropriate, notify law enforcement. A third party investigator may be appointed to investigate Grievance Procedure outlined in Policy 3115E, unless the complaint. The investigator(s) should consult with legal counsel in appropriate cases.~~
- ~~2. The investigator(s) will determine the relevant and appropriate witnesses to be interviewed based on the allegations, Board policy, and the law, and use reasonable efforts to do so. In most cases, the Complainant(s) and the Respondent(s) will be interviewed. The investigator(s) should remind interviewees to maintain confidentiality to the extent permitted by law.~~
- ~~2. Complaints, evidence, witness statements, investigation notes, and findings will be maintained in a confidential manner and protected from disclosure to the extent permitted by law.~~
- ~~2. The preponderance of the evidence (i.e., more likely than not) standard of proof will be used to determine whether discrimination, including unlawful harassment, or retaliation occurred.~~
- ~~2. The investigator(s) may create an investigation report of factual conclusions and findings.~~
- ~~2. The outcome of the investigation will be reported to the Complainant(s) and the Respondent(s).~~

~~B. Remedies~~

~~The District will take prompt and appropriate remedial action to address substantiated instances of discrimination, including unlawful harassment, or retaliation. Remediation may include restorative practices, training, counseling, discipline, transfer, demotion, discharge, or other action as deemed appropriate.~~

~~B. False Complaint or False Statement~~

~~A person who knowingly files a false complaint or makes a materially false statement is subject to discipline, including discharge.~~

~~B. Unlawful Retaliation~~

~~Retaliation against an investigation participant dismissed pursuant to Policy 3115F or informal resolution is prohibited. Any person who unlawfully retaliates is subject to discipline, including discharge. reached Pursuant to Policy 3115D.~~

~~C. Appeal Process~~

~~A Complainant or Respondent who objects to the investigation process or findings must file a written appeal with the Superintendent within 10 business days after receiving the investigation outcome. The written appeal must cite specific objections to the investigation process or findings. If the Superintendent is the~~

~~Respondent or Complainant, an appeal must be filed with the President. If the President is the Respondent or Complainant, an appeal must be filed with the Vice President.~~

~~An appeal will be forwarded to the Board or designee for consideration and action. The Board or designee, in consultation with legal counsel, will take appropriate action, generally within 30 calendar days after receipt of the appeal. A Board officer will then notify the parties in writing of the appeal decision.~~

F.C. Reports to State or Federal Administrative Agencies

Any person who believes that he/she was the victim of ~~discrimination~~Unlawful Discrimination, including unlawful harassment; or ~~retaliation~~Retaliation, may file a complaint with the Michigan Department of Civil Rights (MDCR) or the Equal Employment Opportunity Commission (EEOC) at any time:

Michigan Department of Civil Rights Capitol Tower Building
110 W. Michigan Avenue, Suite 800
Lansing, MI 48933
Phone: 517-335-3165
Fax: 517-241-0546
TTY: 517-241-1965
Email: MDCR-INFO@michigan.gov

Equal Employment Opportunity Commission Patrick V. McNamara Building
477 Michigan Avenue - Room 865
Detroit, MI 48226
Phone: 800-669-4000
Fax: 313-226-4610
TTY: 800-669-6820
Email: info@eeoc.gov

An agency complaint may be filed before, during, or after a complaint is filed with the District, or a person may forego filing a complaint with the District and rely solely on the MDCR or EEOC. The District recommends that a person who has been subjected to ~~discrimination~~Unlawful Discrimination, including unlawful harassment; or ~~retaliation~~Retaliation, also file a complaint with the District to ensure that the District can take steps to prevent further ~~discrimination~~Unlawful Discrimination, including unlawful harassment; or ~~retaliation~~Retaliation, and to discipline the Respondent, if appropriate. The MDCR and EEOC do not serve as an appellate body for District decisions. An investigation by the MDCR or EEOC will occur separately from any District investigation.

Legal authority: U.S. CONST. amend. XIV; 20 USC 1681 et seq.; 29 USC 701 et seq.; 42 USC 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1630; 34 CFR 104, 106.8, ~~106.9, 110.1, et seq.~~; MCL 15.261 et seq.; MCL 37.1101 et seq., 37.2101 et seq.

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4104 Employment Complaint Procedure for Allegations Implicating Civil Rights

This employment complaint procedure for allegations implicating an employee's civil rights is designed to facilitate: (1) prompt notification of alleged Unlawful Discrimination, including unlawful harassment and Retaliation; (2) a prompt and thorough investigation of good faith allegations; and (3) the implementation of appropriate corrective action, if necessary, to eliminate verified Unlawful Discrimination, harassment, and Retaliation from the workplace.

A. Initiating a Complaint

1. A Board member, employee, or employment applicant who believes he/she has been the subject of Unlawful Discrimination, harassment or Retaliation, must timely file a complaint, preferably within 10 business days of the alleged or suspected violation or when the reporter obtained knowledge of the alleged or suspected violation, with the Employment Compliance Officer or applicable coordinator listed in Policy 3115B.
2. A complaint of Unlawful Discrimination, including harassment or Retaliation, may be made verbally or in writing. The complaint will be memorialized on Form 3115-F-1.

B. Investigation Procedures

A written or verbal report (including an anonymous report) of Unlawful Discrimination, including harassment or Retaliation, will be investigated promptly and thoroughly using the Grievance Procedure outlined in Policy 3115E, unless the Complaint is dismissed pursuant to Policy 3115F or informal resolution is reached Pursuant to Policy 3115D.

C. Reports to State or Federal Administrative Agencies

Any person who believes that he/she was the victim of Unlawful Discrimination, including unlawful harassment or Retaliation, may file a complaint with the Michigan Department of Civil Rights (MDCR) or the Equal Employment Opportunity Commission (EEOC) at any time:

Michigan Department of Civil Rights Capitol Tower Building
110 W. Michigan Avenue, Suite 800
Lansing, MI 48933
Phone: 517-335-3165
Fax: 517-241-0546
TTY: 517-241-1965
Email: MDCR-INFO@michigan.gov

Equal Employment Opportunity Commission Patrick V. McNamara Building
477 Michigan Avenue - Room 865
Detroit, MI 48226
Phone: 800-669-4000
Fax: 313-226-4610
TTY: 800-669-6820
Email: info@eEOC.gov

An agency complaint may be filed before, during, or after a complaint is filed with the District, or a person may forego filing a complaint with the District and rely solely on the MDCR or EEOC. The District recommends that a person who has been subjected to Unlawful Discrimination, including unlawful harassment or Retaliation, also file a complaint with the District to ensure that the District can take steps to prevent further Unlawful Discrimination, including unlawful harassment or Retaliation, and to discipline the Respondent, if appropriate. The MDCR and EEOC do not serve as an appellate body for District decisions. An investigation by the MDCR or EEOC will occur separately from any District investigation.

Legal authority: U.S. CONST. amend. XIV; 20 USC 1681 et seq.; 29 USC 701 et seq.; 42 USC 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1630; 34 CFR 104, 106.1, et seq.; MCL 15.261 et seq.; MCL 37.1101 et seq., 37.2101 et seq.

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Date revised: August 19, 2024

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105 ~~Disability Workplace Accommodations for Employees and Applicants Under State and Federal Law~~

The District complies with the ADA, Section 504, the MPDCRA, ~~PWFA~~, and other federal, state, and local laws that prohibit discrimination in employment against qualified persons with disabilities ~~or with limitations related to pregnancy, childbirth, or related medical conditions.~~ The District does not unlawfully discriminate against otherwise qualified employees or applicants for employment with a physical or mental impairment that substantially limits one or more major life activities, those regarded as having a disability, ~~or those with a record of a disability, or employees with limitations related to pregnancy, childbirth, or related medical conditions.~~

An applicant or employee with a disability, ~~or an employee with limitations related to pregnancy, childbirth, or related medical conditions,~~ like all other applicants and employees, must meet the District's requirements for the job, including education, training, employment experience, skills, or licenses/certifications. An applicant or employee with a disability ~~or an employee with limitations related to pregnancy, childbirth, or related medical conditions~~ must be able to perform the job's essential functions with or without reasonable accommodation(s). After an applicant has been given a conditional job offer, the District may ask disability-related questions about the applicant's ability to perform the essential functions of the position with or without reasonable accommodation.

An employee who requires a reasonable accommodation to perform essential job functions must promptly inform the employee's supervisor or the Superintendent or designee. An applicant who requires a reasonable accommodation to perform essential job functions must promptly inform the Superintendent or designee after receiving a conditional offer of employment. A reasonable accommodation is defined as a change in the work environment or in the methods of performing work to enable an otherwise qualified applicant or employee to perform the essential job functions of a position and to enjoy equal employment opportunities.

Upon receipt of an accommodation request, the District will begin the interactive process with the employee or applicant to consider reasonable accommodation options consistent with the ADA, Section 504, and the MPDCRA: ~~[Optional using the interactive process form, Form 4105-F].~~

Reasonable accommodation requests that do not pose a direct threat to health or safety or cause undue hardship, as defined by law, will be considered for qualified applicants or employees with a physical or mental impairment that substantially limits one or more major life activities, ~~or for employees with limitations related to pregnancy, childbirth, or related medical conditions.~~

After considering the relevant medical information, essential job functions, and the applicant's or employee's requested accommodations, the District will, as appropriate, implement reasonable accommodations that do not pose a direct threat to health or safety

or cause an undue hardship. The District is not obligated to adopt the applicant's or employee's specific accommodation request.

The District may engage or re-engage in the interactive process, as necessary.

The District may require a medical statement supporting the requested accommodation. The District may also require an employee to undergo an independent medical examination, limited to the accommodation request, at the District's expense. Medical information will be kept confidential.

Reasonable accommodation of a disability with a limited duration may be provided.

An applicant or employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104.

A qualified applicant or employee with a disability who needs a reasonable accommodation to attend or participate in a public Board meeting may request an accommodation under Policy 2501.

Legal authority: 29 USC 701 et seq.; 42 USC 12101 et seq.; 29 CFR 1630; 34 CFR 104; ~~H.R. 2617-1626, 117th Cong. § 103(1)~~; MCL 37.1101 et seq., 37.2101 et seq.

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105 Disability Workplace Accommodations for Employees and Applicants

The District complies with the ADA, Section 504, the MPDCRA, and other federal, state, and local laws that prohibit discrimination in employment against qualified persons with disabilities. The District does not unlawfully discriminate against otherwise qualified employees or applicants for employment with a physical or mental impairment that substantially limits one or more major life activities, those regarded as having a disability, or those with a record of a disability.

An applicant or employee with a disability, like all other applicants and employees, must meet the District's requirements for the job, including education, training, employment experience, skills, or licenses/certifications. An applicant or employee with a disability must be able to perform the job's essential functions with or without reasonable accommodation(s). After an applicant has been given a conditional job offer, the District may ask disability-related questions about the applicant's ability to perform the essential functions of the position with or without reasonable accommodation.

An employee who requires a reasonable accommodation to perform essential job functions must promptly inform the employee's supervisor or the Superintendent or designee. An applicant who requires a reasonable accommodation to perform essential job functions must promptly inform the Superintendent or designee after receiving a conditional offer of employment. A reasonable accommodation is defined as a change in the work environment or in the methods of performing work to enable an otherwise qualified applicant or employee to perform the essential job functions of a position and to enjoy equal employment opportunities.

Upon receipt of an accommodation request, the District will begin the interactive process with the employee or applicant to consider reasonable accommodation options consistent with the ADA, Section 504, and the MPDCRA.

Reasonable accommodation requests that do not pose a direct threat to health or safety or cause undue hardship, as defined by law, will be considered for qualified applicants or employees with a physical or mental impairment that substantially limits one or more major life activities.

After considering the relevant medical information, essential job functions, and the applicant's or employee's requested accommodations, the District will, as appropriate, implement reasonable accommodations that do not pose a direct threat to health or safety or cause an undue hardship. The District is not obligated to adopt the applicant's or employee's specific accommodation request.

The District may engage or re-engage in the interactive process, as necessary.

The District may require a medical statement supporting the requested accommodation. The District may also require an employee to undergo an independent medical

examination, limited to the accommodation request, at the District's expense. Medical information will be kept confidential.

Reasonable accommodation of a disability with a limited duration may be provided.

An applicant or employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104.

A qualified applicant or employee with a disability who needs a reasonable accommodation to attend or participate in a public Board meeting may request an accommodation under Policy 2501.

Legal authority: 29 USC 701 et seq.; 42 USC 12101 et seq.; 29 CFR 1630; 34 CFR 104; MCL 37.1101 et seq., 37.2101 et seq.

Date adopted: August 15, 2022

Date revised: August 19, 2024

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105A Pregnancy Workplace Accommodations for Employees and Applicants

[Recommended for Districts with 15 or More Employees] [Note: If the Board elects not to adopt this Policy, delete the body of the policy and replace the title with "Intentionally Left Blank" after the policy number and in the Table of Contents to ensure accurate numbering of subsequent policies in the Policy Manual.]

The District complies with state and federal law prohibiting pregnancy discrimination. The District will provide reasonable accommodations to known limitations related to pregnancy, childbirth, or related medical conditions of a qualified employee absent an undue hardship. The District treats pregnancy or related conditions as any other temporary medical condition for all job-related purposes. For purposes of this policy, the term "employee" includes an applicant for employment where relevant.

For an employee who requires a reasonable accommodation due to a known limitation related to pregnancy, childbirth, or related medical conditions, the employee or the employee's representative must make a proper District official (as identified in Pregnant Workers Fairness Act ("PWFA") regulations) aware of the limitation.

Upon receipt of an accommodation request, the District will begin the interactive process with the employee to consider whether the employee is qualified under the PWFA and, if so, reasonable accommodation options consistent with the PWFA that do not cause undue hardship [Optional: using the interactive process form, 4105A-F].

Determining whether an employee is qualified may be a two-step inquiry. First, the District will determine whether the employee can perform the essential job functions of the employee's position with or without a reasonable accommodation. If so, the employee is qualified. If not, then the District will consider the employee to be qualified if: (1) any inability to perform an essential job function(s) is for a temporary period, (2) the essential function(s) could be performed in the near future, and (3) the inability to perform the essential function(s) can be reasonably accommodated without an undue hardship.

Reasonable accommodation requests will not be granted if they cause an undue hardship, as defined by law. The District may require medical documentation supporting the requested accommodation where allowed by law because the information is necessary for assessing the accommodation request. Medical information will be kept confidential.

After considering any relevant medical information, essential job functions, and the employee's requested accommodations, the District will, as appropriate, implement reasonable accommodations for a qualified employee that do not cause an undue hardship. The District is not obligated to adopt the employee's specific accommodation request. The District may engage or re-engage in the interactive process, as necessary.

A reasonable accommodation may include a voluntary leave of absence. If an employee has insufficient leave or insufficient accrued employment time to qualify for leave, or if the

District does not maintain a leave policy applicable to the employee, the District will treat any pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee will be reinstated to the status held when the leave began or to a comparable position without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

An employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104. For additional information about preventing and addressing pregnancy discrimination, see Policy 3115G.

Legal authority: 42 USC 2000gg et seq.; 29 CFR 1636.1 et seq.; 34 CFR 106.57

Date adopted:

Date revised:



Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105A Pregnancy Workplace Accommodations for Employees and Applicants

The District complies with state and federal law prohibiting pregnancy discrimination. The District will provide reasonable accommodations to known limitations related to pregnancy, childbirth, or related medical conditions of a qualified employee absent an undue hardship. The District treats pregnancy or related conditions as any other temporary medical condition for all job-related purposes. For purposes of this policy, the term “employee” includes an applicant for employment where relevant.

For an employee who requires a reasonable accommodation due to a known limitation related to pregnancy, childbirth, or related medical conditions, the employee or the employee’s representative must make a proper District official (as identified in Pregnant Workers Fairness Act (“PWFA”) regulations) aware of the limitation.

Upon receipt of an accommodation request, the District will begin the interactive process with the employee to consider whether the employee is qualified under the PWFA and, if so, reasonable accommodation options consistent with the PWFA that do not cause undue hardship.

Determining whether an employee is qualified may be a two-step inquiry. First, the District will determine whether the employee can perform the essential job functions of the employee’s position with or without a reasonable accommodation. If so, the employee is qualified. If not, then the District will consider the employee to be qualified if: (1) any inability to perform an essential job function(s) is for a temporary period, (2) the essential function(s) could be performed in the near future, and (3) the inability to perform the essential function(s) can be reasonably accommodated without an undue hardship.

Reasonable accommodation requests will not be granted if they cause an undue hardship, as defined by law. The District may require medical documentation supporting the requested accommodation where allowed by law because the information is necessary for assessing the accommodation request. Medical information will be kept confidential.

After considering any relevant medical information, essential job functions, and the employee’s requested accommodations, the District will, as appropriate, implement reasonable accommodations for a qualified employee that do not cause an undue hardship. The District is not obligated to adopt the employee’s specific accommodation request. The District may engage or re-engage in the interactive process, as necessary.

A reasonable accommodation may include a voluntary leave of absence. If an employee has insufficient leave or insufficient accrued employment time to qualify for leave, or if the District does not maintain a leave policy applicable to the employee, the District will treat any pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee will be reinstated to the status held when the leave began or to a comparable position without

decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

An employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104. For additional information about preventing and addressing pregnancy discrimination, see Policy 3115G.

Legal authority: 42 USC 2000gg et seq.; 29 CFR 1636.1 et seq.; 34 CFR 106.57

Date adopted: August 19, 2024

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105B Religious Workplace Accommodations for Employees and Applicants

The District complies with Title VII and state and local laws that prohibit discrimination in employment against employees or applicants for employment based on religion. The District will reasonably accommodate sincerely held religious beliefs, practices, and observances of employees and applicants for employment absent an undue hardship.

An employee or applicant for employment who requests a reasonable accommodation based on religion must promptly inform the Superintendent or designee. Upon receipt of an accommodation request, the District will meet with the employee or applicant to consider reasonable accommodation options consistent with Title VII. Reasonable accommodation requests that do not pose an undue hardship will be considered.

After considering the requested accommodation and other relevant information, the District will, as appropriate, implement reasonable accommodations that do not pose an undue hardship (as defined by law). The District is not obligated to adopt the applicant's or employee's specific accommodation request.

The District may engage or re-engage in accommodation discussions, as necessary.

An applicant or employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104.

Legal authority: 42 USC 2000e, et seq.; *Groff v DeJoy*, 143 S Ct 646 (2023)

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105B Religious Workplace Accommodations for Employees and Applicants

The District complies with Title VII and state and local laws that prohibit discrimination in employment against employees or applicants for employment based on religion. The District will reasonably accommodate sincerely held religious beliefs, practices, and observances of employees and applicants for employment absent an undue hardship.

An employee or applicant for employment who requests a reasonable accommodation based on religion must promptly inform the Superintendent or designee. Upon receipt of an accommodation request, the District will meet with the employee or applicant to consider reasonable accommodation options consistent with Title VII. Reasonable accommodation requests that do not pose an undue hardship will be considered.

After considering the requested accommodation and other relevant information, the District will, as appropriate, implement reasonable accommodations that do not pose an undue hardship (as defined by law). The District is not obligated to adopt the applicant's or employee's specific accommodation request.

The District may engage or re-engage in accommodation discussions, as necessary.

An applicant or employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104.

Legal authority: 42 USC 2000e, et seq.; *Groff v DeJoy*, 143 S Ct 646 (2023)

Date adopted: August 19, 2024

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4106 Family and Medical Leave Act (FMLA) [Optional for Districts with Less Than 50 Employees / Required for Districts with 50 or More Employees] [Note: If the Board elects not to adopt this Policy, delete the body of the policy and replace the title with "Intentionally Left Blank" after the policy number and in the Table of Contents to ensure accurate numbering of subsequent policies in the Policy Manual.]

This Policy will be interpreted and applied consistent with the FMLA, as amended, and its regulations. This Policy should not be interpreted to conflict with an applicable collective bargaining agreement where the collective bargaining agreement provides rights or obligations beyond those conferred by FMLA and that are not prohibited by FMLA.

A. Qualifying for FMLA Leave

1. Employee Eligibility

- a. To be eligible for FMLA leave, an employee must:
 - i. have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave (full-time instructional employees are presumed to meet the 1,250 hour requirement);
 - ii. have completed 12 months (cumulative) of work for the District before the commencement of the leave. This includes non-consecutive intervals of employment with the District occurring up to 7 years before the commencement of the FMLA leave; and
 - iii. make the request at a time when the District has 50 or more employees at, or within 75 miles of, the worksite.
- b. The applicable 12-month period to determine an employee's entitlement to FMLA leave (i.e., the FMLA leave year) is [Choose one: a "rolling" 12-month period measured backward from when the FMLA leave would commence / a "rolling" 12-month period measured forward from the date the employee first takes FMLA leave / the period from _____ to _____ / the calendar year, January 1 to December 31].
- c. An eligible employee taking FMLA leave to care for a covered service member or veteran with a serious injury or illness is allowed to take up to 26 work weeks of leave in a single 12-month period measured forward from the date the employee first takes leave.

2. Qualifying Events

- a. An eligible employee may take FMLA leave, up to a total of 12 work weeks, during any 12-month period for any one or more of the following:

- i. the birth or care of the employee's newborn child;
 - ii. the employee's care for a newly adopted child or child placed in the employee's home for foster care;
 - iii. to care for a spouse, child (who is younger than age 18, or over 18 but incapable of self-care), a ~~parent~~Parent (but not parent-in-law), or an individual for whom the employee stands *in loco parentis* who has a serious health condition;
 - iv. the employee's own serious health condition; or
 - v. a qualifying military exigency about an employee, the employee's spouse, child (regardless of age), or ~~parent~~Parent.
- b. An eligible employee may take up to 26 work weeks of leave during a single 12-month period to care for a covered service member who is receiving medical treatment, recuperation, or therapy, or is in outpatient status, or is on the temporary disability retired list for a serious injury or illness. The employee must be the spouse, child, ~~parent~~Parent (regardless of their child's age), or next of kin of the covered service member. This subsection applies to veterans of the Armed Services who suffered an injury or illness, or aggravated an injury or illness, in the line of duty on active duty if the veteran was a member of the Armed Forces at any time during the 5 years before receiving treatment.

3. Limitations on FMLA Leave

- a. The entitlement to leave for the birth of a child or placement of a child with an employee for the purposes of adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, and these circumstances do not qualify for intermittent or reduced schedule leave. ~~[Optional unless the Superintendent or designee approves an intermittent or reduced schedule leave in writing].~~
- b. Concerning spouses who are both employed by the District, and both eligible for FMLA leave, they are limited to a combined total of 12 work weeks of FMLA leave for the birth or placement, or related care, of a child for adoption or foster care with the employees or the care of a ~~parent~~Parent with a serious health condition. This limitation does not apply to the care of a spouse or child with a serious health condition or to an employee's own serious health condition.
- c. Concerning the entitlement to 26 work weeks of leave to care for a covered service member with a serious illness or injury, the 26 work week allotment may include other reasons for FMLA leave authorized by the Act. But in that allotment, an employee is not entitled to more than 12 work weeks of leave for reasons unrelated to the care for a covered service member with a serious illness or injury.

- d. Concerning spouses who are both employed by the District, and both eligible for FMLA leave to care for a covered service member, they are limited to a combined total of 26 work weeks of leave for all leaves authorized by the Act during the 12-month period commencing with FMLA leave to care for a covered service member. The spouses are subject to the 12 work week limitation for leave related to the birth or placement, or related care, of a child for adoption or foster care with the employees or the care of a parentParent with a serious health condition.

B. FMLA Notice

1. An employee must give the District notice of FMLA leave as follows:
 - a. When the need for FMLA leave is foreseeable (e.g., for the birth of a child, placement for adoption or foster care, or planned medical treatment), 30 calendar days' notice is required. If the employee fails to give 30 calendar days' notice with no reasonable excuse, the District reserves the right to deny or to delay the employee's FMLA leave. If the FMLA leave is for planned medical treatment, the employee must make reasonable efforts to schedule treatment so as not to unduly disrupt the District's operations.
 - b. When the need for FMLA leave is unexpected, the employee must provide notice to the District as soon as practicable.
2. For both foreseeable and unexpected leave, employees must comply with District Policies, work rules, collective bargaining agreement provisions, and customary absence reporting procedures. Failure to comply with these requirements may be grounds to delay or deny the employee's FMLA leave request and may result in discipline.
3. Absent extenuating circumstances, within 5 work days after an employee requests FMLA leave or the District has reasonable information that an employee may qualify for FMLA leave, the District will provide to the employee a copy of this Policy and the U.S. Department of Labor's (DOL) "Notice of Eligibility and Rights & Responsibilities" DOL Form WH-381 (as updated).
4. Once the District receives sufficient notice, including any requested medical certification (see below), that an employee's leave qualifies as FMLA leave, the District will, absent extenuating circumstances, within 5 work days, notify the employee in writing whether the leave is designated as FMLA leave using DOL Form WH-382 (as updated).

C. Certification

1. If an employee requests FMLA leave due to the employee's serious health condition or to care for a parentParent, child, or spouse with a serious health condition, the employee must provide medical certification from a health care provider of the serious health condition involved and, if applicable, verification that the employee is needed to care for the family member and the expected

duration of the leave. Employees requesting leave for a qualifying exigency or leave to care for a covered service member with a serious injury or illness must provide the appropriate certification. The District will provide the employee with the appropriate DOL form applicable to the employee's requested leave.

2. Employees must return the requested certification within 15 calendar days after the request. The District may delay or deny FMLA leave if submission of the certification is not timely.
3. Failure or refusal to provide requested medical certification within 15 calendar days may result in denial of the leave being designated as FMLA leave.
4. If an employee provides an incomplete or insufficient certification, the District will advise the employee, in writing, of the deficiencies and what additional information is needed. An employee must return the requested additional information within 7 calendar days. The District, but not the employee's direct supervisor, may contact an employee's health care provider for clarification or authentication of a certification. The District may not contact the employee's health care provider if a complete and sufficient certification, signed by the health care provider, is submitted.
5. If the District has reason to doubt the medical certification an employee submits, the District may require, at its expense, that the employee obtain a second opinion from a health care provider of the District's choice. If the second opinion differs, the District may require, at its expense, that a third opinion be obtained from a health care provider who is mutually selected by the employee and the District. The third medical certification will be final and binding on both parties. If the employee refuses to be examined by the third health care provider, the employee will be bound by the second opinion. The District may not request a second opinion for leave to care for a covered service member or veteran with a serious injury or illness.

The District may request recertification consistent with FMLA regulations. Recertification will be at the employee's expense.

The District may request recertification in less than 30 calendar days if: an employee requests an extension of FMLA leave; circumstances stated in the prior certification have changed significantly; or the District receives information that casts doubt upon the employee's stated reason for the absence or the certification's validity.

D. Concurrent Leave and Substitution of Paid Leave

FMLA leave provided to employees is unpaid, unless the employee has applicable paid leave. Applicable paid leave (e.g., sick, personal, business, vacation, paid time off, leave under Michigan Paid Medical Leave Act (MPMLA), or workers' compensation) will run concurrently with FMLA leave at the election of either the District or the employee. The ability to use paid leave concurrently with FMLA leave is subject to compliance with the procedures and conditions normally associated

with the paid leave. A medical leave of absence covered by workers' compensation runs concurrently with FMLA leave and consistent with an applicable individual employment contract or collective bargaining agreement. FMLA leave beyond an employee's applicable accrued paid leave is unpaid.

E. Intermittent and Reduced Schedule Leave

1. Eligible employees may take FMLA leave intermittently or on a reduced schedule when leave is taken to care for a family member with a serious health condition, for an employee's own serious health condition, because of a qualifying exigency, or to care for a covered service member or veteran, an eligible employee may take leave intermittently or on a reduced schedule when medically necessary.
2. Intermittent or reduced schedule leave will not result in a reduction in the employee's total amount of leave beyond the amount of leave actually taken. Intermittent and reduced schedule FMLA leave will be accounted for in the shortest increment used to account for leave generally within the employee's classification.

Employees must follow the District's absence reporting procedures when using intermittent leave.

3. When an instructional employee seeks to take intermittent or reduced schedule leave to care for a family member with a serious health condition, to care for a covered service member or veteran, or for the employee's own serious health condition which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20% of the total number of work days over the leave period, the District may either require the employee to take leave on a full-time basis for the duration of the requested intermittent or reduced schedule leave or temporarily transfer the employee to an alternate position with equivalent pay and benefits.
4. If an eligible employee requests intermittent or reduced schedule leave for a foreseeable medical treatment, including during a period of recovery from a serious health condition, the District may require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position. The alternate position must have equivalent pay and benefits as the employee's regular position.

F. Group Health Plan Benefits

1. Eligible employees are generally entitled to the continuation of District-provided group health plan benefits while on FMLA leave. Group health plan benefits include medical, dental, and optical insurance coverages in which the employee is enrolled at the time that FMLA leave is taken.

2. The District will continue paying its portion, if any, of the employee's group health plan costs and insurance premiums or representative premiums while the employee is on FMLA leave and in accordance with any applicable collective bargaining or individual employment contract. Any share or portion of the group health plan costs, insurance premiums, or representative premiums paid by the employee before FMLA leave must continue to be paid by the employee during FMLA leave. See DOL Form WH-381. An employee's failure to pay his/her portion of group health plan costs, insurance premiums, or representative premiums during FMLA leave may result in loss of coverage if the employee's contribution is more than 30 calendar days late. The District will provide the employee with written notice at least 15 calendar days before cancelling the employee's coverage because of a failure to make employee contributions.
3. As addressed in subsection I below, an employee who fails to voluntarily return to work after FMLA leave may be required to repay the District for his/her group health plan benefit costs.

G. Return to Work

1. At the expiration date of an employee's FMLA leave, the employee will be returned to that employee's former position or an equivalent position with the same pay, benefits, and working conditions. An employee taking FMLA leave has no greater right to reinstatement than if the employee had been continuously employed during the FMLA leave period.
2. If an employee was unable to renew a license or certification because of FMLA leave and is no longer qualified for the employee's former position, the District will provide the employee reasonable time, on unpaid status, to fulfill the necessary return to work conditions.
3. Instructional Employees
 - a. "Instructional" employees are those whose principal function is to teach and instruct students in a class, small group, or individual setting.
 - b. If an instructional employee begins FMLA leave more than 5 weeks before the end of a term or semester, the District may require the employee to take FMLA leave until the end of the term or semester if the FMLA leave is to last at least 3 weeks and the employee would return to work during the 3-week period before the end of the term or semester.
 - c. If an instructional employee begins FMLA leave during the 5-week period before the end of a term or semester because of the birth or placement for adoption or foster care of a child, to care for a spouse, child, or ~~parent~~Parent with a serious health condition, or to care for a covered service member or veteran, the District may require that FMLA leave be taken until the end of the term or semester if the instructional employee would return to work

during the 2-week period immediately before the end of the term or semester and the leave is to last more than 2 weeks.

- d. If an instructional employee begins FMLA leave during the 3-week period before the end of a term or semester because of the birth or placement for adoption or foster care of a child, to care for a spouse, child, or ~~parent~~Parent with a serious health condition, or to care for a covered service member or veteran, the District may require the employee to take FMLA leave until the end of the term or semester, if the leave will last more than five (5) work days.
- e. Any additional FMLA leave required of an instructional employee by the District will not count against the employee's allotment of FMLA leave.

4. Fitness for Duty

The District may require that an employee returning from FMLA leave submit a fitness-for-duty certification from a health care provider which addresses the employee's ability to return to work and perform the essential functions of the employee's position. The District must provide the employee with notice of the requirement to provide a fitness-for-duty certification and the essential functions of the employee's position when the District provides the employee the designation of FMLA leave notice (DOL Form WH-382, as updated). If the employee fails to submit the fitness-for-duty certification in a timely manner, return from FMLA leave may be delayed by the District. The employee may be terminated if he/she fails to submit the fitness-for-duty certification.

5. Unless a collective bargaining agreement provides otherwise, an employee on unpaid FMLA leave is not entitled to accrue seniority, employment benefits (other than medical insurance), or any benefit conditioned on length of service or work performed.

H. Denial of Key Employee Restoration

1. The District reserves the right to deny restoration to the same or equivalent position to any eligible employee who is a key employee, meaning any employee who is paid a salary and is in the highest paid 10% of employees. The District may deny restoration if necessary to prevent substantial and grievous economic injury to the District's operations. If the District intends to deny restoration to a key employee, it will:
 - a. use DOL Form WH-381, as updated, to notify the employee of his/her status as a key employee in response to the employee's request for FMLA leave and provide the employee with an explanation of the consequences for the employee if the District determines that substantial and grievous injury will result to its operations if the employee is reinstated after FMLA leave;
 - b. notify the employee, in person or by certified mail, as soon as the District decides it will deny restoration and the reasons for the denial;

- c. offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice;
- d. make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration; and
- e. the District must maintain its group health plan cost, contributions, premium, or representative premium contributions for the employee's group health plan benefits for the entire term of the employee's FMLA leave, even after giving the employee notice that restoration will be denied.

I. Failure to Return to Work

1. An employee's unexcused failure to return to work upon expiration of FMLA leave will subject the employee to discharge unless the District grants an extension of leave as required by law or under a collective bargaining agreement, employee handbook, or individual employment contract. An employee who requests an extension of leave due to the continuation, recurrence, or onset of the employee's serious health condition, or the serious health condition of the employee's spouse, child, ~~parent~~Parent, or covered service member or veteran, must submit to the employee's supervisor a written request for an extension. This written request must be made as soon as possible before the expiration of the employee's FMLA leave. Medical certification or recertification will be required to support any request for leave extension.
2. If an employee is unable to perform the essential functions of the position or an equivalent position at the end of FMLA leave, the District will comply with ADA requirements, as applicable.
3. If an employee fails to return to work after his/her FMLA leave expires, the employee must reimburse the District for any group health plan costs, contributions, premiums, and representative premiums that the District paid for continuation of the employee's group health benefits coverage during FMLA leave, unless the employee does not return due to: (a) the continuation, recurrence, or onset of the serious health condition which entitled the employee to FMLA leave and the employee provides the District with sufficient certification from the proper health care provider of the continuation, recurrence, or onset of the serious health condition; or (b) other circumstances beyond the employee's control. This provision does not apply to any group health plan cost, insurance premium, or representative premium contributions made by the District for periods during which the employee used paid leave concurrently with FMLA leave.

J. Recordkeeping

1. The District will maintain the following records related to FMLA requests and use:

- a. basic payroll information;
 - b. dates (or hours) during which eligible employees take FMLA leave;
 - c. copies of all notices, requests, and other documents related to FMLA leave;
 - d. copies of documents evidencing group health plan cost contributions, insurance premium, and representative premium payments made by the District on behalf of an eligible employee on FMLA leave; and
 - e. documents related to disputes about eligibility or designation of FMLA leave.
2. Medical certifications and other medical documentation related to FMLA leave will be maintained in a separate, confidential file from an employee's personnel file. See Policy 4224.

K. Notice to Employees

The District will post the appropriate notice of rights poster in a location easily seen by employees and include a general notice of employee FMLA rights in applicable employee handbooks or by providing employees notice at their time of hire.

Legal authority: 29 USC 2601 et seq.; 29 CFR 825.100 et seq.

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4106 Family and Medical Leave Act (FMLA)

This Policy will be interpreted and applied consistent with the FMLA, as amended, and its regulations. This Policy should not be interpreted to conflict with an applicable collective bargaining agreement where the collective bargaining agreement provides rights or obligations beyond those conferred by FMLA and that are not prohibited by FMLA.

A. Qualifying for FMLA Leave

1. Employee Eligibility

a. To be eligible for FMLA leave, an employee must:

- i. have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave (full-time instructional employees are presumed to meet the 1,250 hour requirement);
- ii. have completed 12 months (cumulative) of work for the District before the commencement of the leave. This includes non-consecutive intervals of employment with the District occurring up to 7 years before the commencement of the FMLA leave; and
- iii. make the request at a time when the District has 50 or more employees at, or within 75 miles of, the worksite.

b. The applicable 12-month period to determine an employee's entitlement to FMLA leave (i.e., the FMLA leave year) is a "rolling" 12-month period measured backward from when the FMLA leave would commence.

c. An eligible employee taking FMLA leave to care for a covered service member or veteran with a serious injury or illness is allowed to take up to 26 work weeks of leave in a single 12-month period measured forward from the date the employee first takes leave.

2. Qualifying Events

a. An eligible employee may take FMLA leave, up to a total of 12 work weeks, during any 12-month period for any one or more of the following:

- i. the birth or care of the employee's newborn child;
- ii. the employee's care for a newly adopted child or child placed in the employee's home for foster care;
- iii. to care for a spouse, child (who is younger than age 18, or over 18 but incapable of self-care), a Parent (but not parent-in-law), or an individual

for whom the employee stands *in loco parentis* who has a serious health condition;

- iv. the employee's own serious health condition; or
 - v. a qualifying military exigency about an employee, the employee's spouse, child (regardless of age), or Parent.
- b. An eligible employee may take up to 26 work weeks of leave during a single 12-month period to care for a covered service member who is receiving medical treatment, recuperation, or therapy, or is in outpatient status, or is on the temporary disability retired list for a serious injury or illness. The employee must be the spouse, child, Parent (regardless of their child's age), or next of kin of the covered service member. This subsection applies to veterans of the Armed Services who suffered an injury or illness, or aggravated an injury or illness, in the line of duty on active duty if the veteran was a member of the Armed Forces at any time during the 5 years before receiving treatment.

3. Limitations on FMLA Leave

- a. The entitlement to leave for the birth of a child or placement of a child with an employee for the purposes of adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, and these circumstances do not qualify for intermittent or reduced schedule leave.
- b. Concerning spouses who are both employed by the District, and both eligible for FMLA leave, they are limited to a combined total of 12 work weeks of FMLA leave for the birth or placement, or related care, of a child for adoption or foster care with the employees or the care of a Parent with a serious health condition. This limitation does not apply to the care of a spouse or child with a serious health condition or to an employee's own serious health condition.
- c. Concerning the entitlement to 26 work weeks of leave to care for a covered service member with a serious illness or injury, the 26 work week allotment may include other reasons for FMLA leave authorized by the Act. But in that allotment, an employee is not entitled to more than 12 work weeks of leave for reasons unrelated to the care for a covered service member with a serious illness or injury.
- d. Concerning spouses who are both employed by the District, and both eligible for FMLA leave to care for a covered service member, they are limited to a combined total of 26 work weeks of leave for all leaves authorized by the Act during the 12-month period commencing with FMLA leave to care for a covered service member. The spouses are subject to the 12 work week limitation for leave related to the birth or placement, or related

care, of a child for adoption or foster care with the employees or the care of a Parent with a serious health condition.

B. FMLA Notice

1. An employee must give the District notice of FMLA leave as follows:
 - a. When the need for FMLA leave is foreseeable (e.g., for the birth of a child, placement for adoption or foster care, or planned medical treatment), 30 calendar days' notice is required. If the employee fails to give 30 calendar days' notice with no reasonable excuse, the District reserves the right to deny or to delay the employee's FMLA leave. If the FMLA leave is for planned medical treatment, the employee must make reasonable efforts to schedule treatment so as not to unduly disrupt the District's operations.
 - b. When the need for FMLA leave is unexpected, the employee must provide notice to the District as soon as practicable.
2. For both foreseeable and unexpected leave, employees must comply with District Policies, work rules, collective bargaining agreement provisions, and customary absence reporting procedures. Failure to comply with these requirements may be grounds to delay or deny the employee's FMLA leave request and may result in discipline.
3. Absent extenuating circumstances, within 5 work days after an employee requests FMLA leave or the District has reasonable information that an employee may qualify for FMLA leave, the District will provide to the employee a copy of this Policy and the U.S. Department of Labor's (DOL) "Notice of Eligibility and Rights & Responsibilities" DOL Form WH-381 (as updated).
4. Once the District receives sufficient notice, including any requested medical certification (see below), that an employee's leave qualifies as FMLA leave, the District will, absent extenuating circumstances, within 5 work days, notify the employee in writing whether the leave is designated as FMLA leave using DOL Form WH-382 (as updated).

C. Certification

1. If an employee requests FMLA leave due to the employee's serious health condition or to care for a Parent, child, or spouse with a serious health condition, the employee must provide medical certification from a health care provider of the serious health condition involved and, if applicable, verification that the employee is needed to care for the family member and the expected duration of the leave. Employees requesting leave for a qualifying exigency or leave to care for a covered service member with a serious injury or illness must provide the appropriate certification. The District will provide the employee with the appropriate DOL form applicable to the employee's requested leave.

2. Employees must return the requested certification within 15 calendar days after the request. The District may delay or deny FMLA leave if submission of the certification is not timely.
3. Failure or refusal to provide requested medical certification within 15 calendar days may result in denial of the leave being designated as FMLA leave.
4. If an employee provides an incomplete or insufficient certification, the District will advise the employee, in writing, of the deficiencies and what additional information is needed. An employee must return the requested additional information within 7 calendar days. The District, but not the employee's direct supervisor, may contact an employee's health care provider for clarification or authentication of a certification. The District may not contact the employee's health care provider if a complete and sufficient certification, signed by the health care provider, is submitted.
5. If the District has reason to doubt the medical certification an employee submits, the District may require, at its expense, that the employee obtain a second opinion from a health care provider of the District's choice. If the second opinion differs, the District may require, at its expense, that a third opinion be obtained from a health care provider who is mutually selected by the employee and the District. The third medical certification will be final and binding on both parties. If the employee refuses to be examined by the third health care provider, the employee will be bound by the second opinion. The District may not request a second opinion for leave to care for a covered service member or veteran with a serious injury or illness.

The District may request recertification consistent with FMLA regulations. Recertification will be at the employee's expense.

The District may request recertification in less than 30 calendar days if: an employee requests an extension of FMLA leave; circumstances stated in the prior certification have changed significantly; or the District receives information that casts doubt upon the employee's stated reason for the absence or the certification's validity.

D. Concurrent Leave and Substitution of Paid Leave

FMLA leave provided to employees is unpaid, unless the employee has applicable paid leave. Applicable paid leave (e.g., sick, personal, business, vacation, paid time off, leave under Michigan Paid Medical Leave Act (MPMLA), or workers' compensation) will run concurrently with FMLA leave at the election of either the District or the employee. The ability to use paid leave concurrently with FMLA leave is subject to compliance with the procedures and conditions normally associated with the paid leave. A medical leave of absence covered by workers' compensation runs concurrently with FMLA leave and consistent with an applicable individual employment contract or collective bargaining agreement. FMLA leave beyond an employee's applicable accrued paid leave is unpaid.

E. Intermittent and Reduced Schedule Leave

- 1. Eligible employees may take FMLA leave intermittently or on a reduced schedule when leave is taken to care for a family member with a serious health condition, for an employee's own serious health condition, because of a qualifying exigency, or to care for a covered service member or veteran, an eligible employee may take leave intermittently or on a reduced schedule when medically necessary.**
- 2. Intermittent or reduced schedule leave will not result in a reduction in the employee's total amount of leave beyond the amount of leave actually taken. Intermittent and reduced schedule FMLA leave will be accounted for in the shortest increment used to account for leave generally within the employee's classification.**

Employees must follow the District's absence reporting procedures when using intermittent leave.

- 3. When an instructional employee seeks to take intermittent or reduced schedule leave to care for a family member with a serious health condition, to care for a covered service member or veteran, or for the employee's own serious health condition which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20% of the total number of work days over the leave period, the District may either require the employee to take leave on a full-time basis for the duration of the requested intermittent or reduced schedule leave or temporarily transfer the employee to an alternate position with equivalent pay and benefits.**
- 4. If an eligible employee requests intermittent or reduced schedule leave for a foreseeable medical treatment, including during a period of recovery from a serious health condition, the District may require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position. The alternate position must have equivalent pay and benefits as the employee's regular position.**

F. Group Health Plan Benefits

- 1. Eligible employees are generally entitled to the continuation of District-provided group health plan benefits while on FMLA leave. Group health plan benefits include medical, dental, and optical insurance coverages in which the employee is enrolled at the time that FMLA leave is taken.**
- 2. The District will continue paying its portion, if any, of the employee's group health plan costs and insurance premiums or representative premiums while the employee is on FMLA leave and in accordance with any applicable collective bargaining or individual employment contract. Any share or portion of the group health plan costs, insurance premiums, or representative premiums paid by the employee before FMLA leave must continue to be paid by the**

employee during FMLA leave. See DOL Form WH-381. An employee's failure to pay his/her portion of group health plan costs, insurance premiums, or representative premiums during FMLA leave may result in loss of coverage if the employee's contribution is more than 30 calendar days late. The District will provide the employee with written notice at least 15 calendar days before cancelling the employee's coverage because of a failure to make employee contributions.

3. As addressed in subsection I below, an employee who fails to voluntarily return to work after FMLA leave may be required to repay the District for his/her group health plan benefit costs.

G. Return to Work

1. At the expiration date of an employee's FMLA leave, the employee will be returned to that employee's former position or an equivalent position with the same pay, benefits, and working conditions. An employee taking FMLA leave has no greater right to reinstatement than if the employee had been continuously employed during the FMLA leave period.
2. If an employee was unable to renew a license or certification because of FMLA leave and is no longer qualified for the employee's former position, the District will provide the employee reasonable time, on unpaid status, to fulfill the necessary return to work conditions.
3. Instructional Employees
 - a. "Instructional" employees are those whose principal function is to teach and instruct students in a class, small group, or individual setting.
 - b. If an instructional employee begins FMLA leave more than 5 weeks before the end of a term or semester, the District may require the employee to take FMLA leave until the end of the term or semester if the FMLA leave is to last at least 3 weeks and the employee would return to work during the 3-week period before the end of the term or semester.
 - c. If an instructional employee begins FMLA leave during the 5-week period before the end of a term or semester because of the birth or placement for adoption or foster care of a child, to care for a spouse, child, or Parent with a serious health condition, or to care for a covered service member or veteran, the District may require that FMLA leave be taken until the end of the term or semester if the instructional employee would return to work during the 2-week period immediately before the end of the term or semester and the leave is to last more than 2 weeks.
 - d. If an instructional employee begins FMLA leave during the 3-week period before the end of a term or semester because of the birth or placement for adoption or foster care of a child, to care for a spouse, child, or Parent with a serious health condition, or to care for a covered service member or

veteran, the District may require the employee to take FMLA leave until the end of the term or semester, if the leave will last more than five (5) work days.

- e. Any additional FMLA leave required of an instructional employee by the District will not count against the employee's allotment of FMLA leave.

4. Fitness for Duty

The District may require that an employee returning from FMLA leave submit a fitness-for-duty certification from a health care provider which addresses the employee's ability to return to work and perform the essential functions of the employee's position. The District must provide the employee with notice of the requirement to provide a fitness-for-duty certification and the essential functions of the employee's position when the District provides the employee the designation of FMLA leave notice (DOL Form WH-382, as updated). If the employee fails to submit the fitness-for-duty certification in a timely manner, return from FMLA leave may be delayed by the District. The employee may be terminated if he/she fails to submit the fitness-for-duty certification.

- 5. Unless a collective bargaining agreement provides otherwise, an employee on unpaid FMLA leave is not entitled to accrue seniority, employment benefits (other than medical insurance), or any benefit conditioned on length of service or work performed.

H. Denial of Key Employee Restoration

- 1. The District reserves the right to deny restoration to the same or equivalent position to any eligible employee who is a key employee, meaning any employee who is paid a salary and is in the highest paid 10% of employees. The District may deny restoration if necessary to prevent substantial and grievous economic injury to the District's operations. If the District intends to deny restoration to a key employee, it will:
 - a. use DOL Form WH-381, as updated, to notify the employee of his/her status as a key employee in response to the employee's request for FMLA leave and provide the employee with an explanation of the consequences for the employee if the District determines that substantial and grievous injury will result to its operations if the employee is reinstated after FMLA leave;
 - b. notify the employee, in person or by certified mail, as soon as the District decides it will deny restoration and the reasons for the denial;
 - c. offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice;
 - d. make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration; and

- e. the District must maintain its group health plan cost, contributions, premium, or representative premium contributions for the employee's group health plan benefits for the entire term of the employee's FMLA leave, even after giving the employee notice that restoration will be denied.

I. Failure to Return to Work

1. An employee's unexcused failure to return to work upon expiration of FMLA leave will subject the employee to discharge unless the District grants an extension of leave as required by law or under a collective bargaining agreement, employee handbook, or individual employment contract. An employee who requests an extension of leave due to the continuation, recurrence, or onset of the employee's serious health condition, or the serious health condition of the employee's spouse, child, Parent, or covered service member or veteran, must submit to the employee's supervisor a written request for an extension. This written request must be made as soon as possible before the expiration of the employee's FMLA leave. Medical certification or recertification will be required to support any request for leave extension.
2. If an employee is unable to perform the essential functions of the position or an equivalent position at the end of FMLA leave, the District will comply with ADA requirements, as applicable.
3. If an employee fails to return to work after his/her FMLA leave expires, the employee must reimburse the District for any group health plan costs, contributions, premiums, and representative premiums that the District paid for continuation of the employee's group health benefits coverage during FMLA leave, unless the employee does not return due to: (a) the continuation, recurrence, or onset of the serious health condition which entitled the employee to FMLA leave and the employee provides the District with sufficient certification from the proper health care provider of the continuation, recurrence, or onset of the serious health condition; or (b) other circumstances beyond the employee's control. This provision does not apply to any group health plan cost, insurance premium, or representative premium contributions made by the District for periods during which the employee used paid leave concurrently with FMLA leave.

J. Recordkeeping

1. The District will maintain the following records related to FMLA requests and use:
 - a. basic payroll information;
 - b. dates (or hours) during which eligible employees take FMLA leave;
 - c. copies of all notices, requests, and other documents related to FMLA leave;

- d. copies of documents evidencing group health plan cost contributions, insurance premium, and representative premium payments made by the District on behalf of an eligible employee on FMLA leave; and
 - e. documents related to disputes about eligibility or designation of FMLA leave.
2. Medical certifications and other medical documentation related to FMLA leave will be maintained in a separate, confidential file from an employee's personnel file. See Policy 4224.

K. Notice to Employees

The District will post the appropriate notice of rights poster in a location easily seen by employees and include a general notice of employee FMLA rights in applicable employee handbooks or by providing employees notice at their time of hire.

Legal authority: 29 USC 2601 et seq.; 29 CFR 825.100 et seq.

Date adopted: August 15, 2022

Date revised: August 19, 2024

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4107 Military Leave

The District complies with the Uniformed Services Employment and Reemployment Rights Act (USERRA), Michigan's Military Leaves Reemployment Protection Act (MLRPA), and Michigan's Public Employees Entering Armed Forces Act (MPEEAFA). The term "military service" as used in this Policy includes the "uniformed services" as defined in the USERRA, "service" as defined in the MLRPA, and "military duty" as defined in the MPEEAFA.

Military service also includes service and training in the Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, applicable reserve forces, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service, and other categories of persons designated by the U.S. President in times of war.

In qualifying circumstances, eligible full- and part-time employees may take leave related to military service and are entitled to reemployment and other rights during and at the conclusion of military leave. Military leave is unpaid, but employees may use accrued applicable paid leave for all or a portion of their military leave in accordance with a collective bargaining agreement or individual employment contract.

A. Employee Notice and Eligibility

1. Advance notice of military service is required, unless that service prevents advance notice or notice is otherwise unreasonable or impossible.
2. Employees are eligible for military leave when called to provide military service, whether voluntary or involuntary.
3. Military leave may be taken for the purpose of active duty, active duty training, inactive duty training, full-time National Guard duty, examinations to determine fitness for duty, funeral honors duty, duty related to the National Disaster Medical System, or any other activity authorized by law.

B. Reemployment Rights

1. Employees returning from military leave are entitled to prompt reemployment pursuant to conditions in the law.
2. Employees may be disqualified from reemployment when: (a) discharged dishonorably or for bad conduct; (b) separation from military service is considered "other than honorable" by the applicable military branch; (c) dismissal occurs via court martial or by order of the U.S. President; or (d) the employee is dropped from the military service rolls because of an unauthorized absence from military service or imprisonment.

3. The District may deny reemployment after military leave if the District's circumstances have changed to make reemployment impossible or unreasonable.

C. Reemployment Positions

An employee's reemployment position upon returning from military leave depends on the length of the employee's military service, advancement if the employee had remained continuously employed, the employee's qualifications, and other factors described in the law.

D. Pay and Rights Upon Reemployment

1. Upon reemployment, an employee receives seniority and other rights and benefits determined by seniority that the employee had attained on the date that military leave began, plus the additional seniority and rights and benefits that the employee would have attained if the employee had remained continuously employed. An employee is entitled to any other rights and benefits not determined by seniority as are generally provided by the District to other employees having similar seniority, status, and pay when taking a non-military leave.
2. Upon reemployment, an employee's eligibility calculation for leave under the FMLA will assume that the employee worked for the District during the period of military leave.
3. Upon reemployment, an employee may not be discharged except for a reason constituting just cause for a period of up to 1 year after reemployment from military leave depending on the length and type of military service.

E. Benefits

1. If an employee commencing military leave has coverage under a District-provided group health benefit plan, the employee may (at the employee's expense) elect to continue coverage for the employee, the employee's spouse, and/or the employee's dependents, subject to conditions in the law.
2. If an employee's health insurance coverage is terminated consistent with the law, upon reemployment, the employee (and the employee's spouse and dependents) is immediately eligible for reinstatement of health insurance coverage.

F. Notice and Complaints

1. Notice of employee rights under the USERRA will be posted in an appropriate location.
2. The District will not retaliate or take adverse action against an employee based on the employee's exercise of rights under the law.

3. An employee must immediately contact the Employment Compliance Officer(s) if the employee believes the District has violated the law or this Policy. The District will investigate the complaint pursuant to Policy 4104.

Legal authority: 38 USC 4301 et seq.; MCL 32.271 et seq.; MCL 35.351 et seq.

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

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In qualifying circumstances, eligible full- and part-time employees may take leave related to military service and are entitled to reemployment and other rights during and at the conclusion of military leave. Military leave is unpaid, but employees may use accrued applicable paid leave for all or a portion of their military leave in accordance with a collective bargaining agreement or individual employment contract.

A. Employee Notice and Eligibility

1. Advance notice of military service is required, unless that service prevents advance notice or notice is otherwise unreasonable or impossible.
2. Employees are eligible for military leave when called to provide military service, whether voluntary or involuntary.
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2. Employees may be disqualified from reemployment when: (a) discharged dishonorably or for bad conduct; (b) separation from military service is considered "other than honorable" by the applicable military branch; (c) dismissal occurs via court martial or by order of the U.S. President; or (d) the employee is dropped from the military service rolls because of an unauthorized absence from military service or imprisonment.

3. The District may deny reemployment after military leave if the District's circumstances have changed to make reemployment impossible or unreasonable.

C. Reemployment Positions

An employee's reemployment position upon returning from military leave depends on the length of the employee's military service, advancement if the employee had remained continuously employed, the employee's qualifications, and other factors described in the law.

D. Pay and Rights Upon Reemployment

1. Upon reemployment, an employee receives seniority and other rights and benefits determined by seniority that the employee had attained on the date that military leave began, plus the additional seniority and rights and benefits that the employee would have attained if the employee had remained continuously employed. An employee is entitled to any other rights and benefits not determined by seniority as are generally provided by the District to other employees having similar seniority, status, and pay when taking a non-military leave.
2. Upon reemployment, an employee's eligibility calculation for leave under the FMLA will assume that the employee worked for the District during the period of military leave.
3. Upon reemployment, an employee may not be discharged except for a reason constituting just cause for a period of up to 1 year after reemployment from military leave depending on the length and type of military service.

E. Benefits

1. If an employee commencing military leave has coverage under a District-provided group health benefit plan, the employee may (at the employee's expense) elect to continue coverage for the employee, the employee's spouse, and/or the employee's dependents, subject to conditions in the law.
2. If an employee's health insurance coverage is terminated consistent with the law, upon reemployment, the employee (and the employee's spouse and dependents) is immediately eligible for reinstatement of health insurance coverage.

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Legal authority: 38 USC 4301 et seq.; MCL 32.271 et seq.; MCL 35.351 et seq.

Date adopted: August 15, 2022

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4109 *Break Time for Nursing Mothers* [Recommended for districts with 50 or more employees] [Note: if the Board elects not to adopt this Policy, delete the body of the policy and replace the title with "Intentionally Left Blank" after the policy number and in the Table of Contents to ensure accurate numbering of subsequent policies in the Policy Manual.]

Each time an employee needs to express breast milk during the 1-year period after the child's birth, the District will provide reasonable break time for ~~a non-exempt (i.e., hourly) employee to express breast milk for her nursing child~~this purpose in a place, other than a bathroom, that is shielded from view and free from intrusion by co-workers and the public ~~for 1 year after the child's birth~~ [Optional: or additional time may be granted for appropriate cause as determined by the Superintendent or designee]. ~~The~~For non-exempt employees, break time for ~~this purpose~~expressing breast milk will be unpaid unless the ~~non-exempt employee is not completely relieved from duty during the entirety of the break, or the~~ employee uses paid break time to which ~~she~~the employee is otherwise entitled under an applicable collective bargaining agreement, individual employment contract, or employee handbook. A longer accommodation may be available under the Pregnant Workers Fairness Act.

Legal authority: 29 USC ~~207(r)~~218d; 34 CFR 106.57

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4109 Break Time for Nursing Mothers

Each time an employee needs to express breast milk during the 1-year period after the child's birth, the District will provide reasonable break time for this purpose in a place, other than a bathroom, that is shielded from view and free from intrusion by co-workers and the public. For non-exempt employees, break time for expressing breast milk will be unpaid unless the employee is not completely relieved from duty during the entirety of the break, or the employee uses paid break time to which the employee is otherwise entitled under an applicable collective bargaining agreement, individual employment contract, or employee handbook. A longer accommodation may be available under the Pregnant Workers Fairness Act.

Legal authority: 29 USC 218d; 34 CFR 106.57

Date adopted: August 15, 2022

Date revised: August 19, 2024