

## ~~4111 — FAMILY AND MEDICAL LEAVE ACT POLICY~~

~~The Family and Medical Leave Act of 1993 (FMLA) provides for up to 12 weeks of job-protected leave to eligible employees for certain family and medical reasons. The purpose of this policy is to provide guidelines for implementation of the FMLA. Terms used in this policy are intended to have the meaning set forth in the FMLA and accompanying U.S. Department of Labor regulations. Any aspect of FMLA leave not specifically addressed in this policy shall be handled in accordance with the FMLA and accompanying U.S. Department of Labor regulations and applicable policies of the Employer.~~

~~An employee must meet the following requirements to be eligible for FMLA leave:~~

- ~~1. The employee must have worked for the Employer for at least 12 months; and~~
- ~~2. The employee must have worked at least 1,250 hours during the 12 months immediately preceding the request.~~

~~FMLA leave may be requested for the following reasons:~~

- ~~1. For the birth of a child, and to care for the newborn child;~~
- ~~2. For the placement with the employee of a child for adoption or foster care;~~
- ~~3. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or~~
- ~~4. For a serious health condition that makes the employee unable to perform the essential functions of the employee's job.~~

~~Eligibility for FMLA leave for birth or placement of a child expires 12 months after the birth or placement of the child. Circumstances may require that leave for the birth of a child, or for placement for adoption or foster care, commence prior to actual birth or placement.~~

~~An eligible employee may qualify for up to 12 weeks of FMLA leave in any 12 month period. From the 12 week maximum, any FMLA leave which the employee has taken during the 12 months preceding commencement of the requested leave will be subtracted to determine the maximum leave for which the employee may be eligible presently.~~

~~In accordance with the FMLA, the Employer may require that an instructional employee's FMLA leave continue until the end of the academic semester under circumstances where the employee would otherwise be returning from leave near the end of the academic semester.~~

~~When FMLA leave is taken to care for a spouse, son or daughter, or parent, with a serious health condition, or for an employee's own serious health condition, leave may be taken intermittently or on a reduced schedule if shown to be "medically necessary". Where leave is taken for the birth or placement of a child for adoption or foster care, leave may be taken on an intermittent or reduced leave schedule only if the Employer agrees.~~

~~If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule to care for a family member, 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 percent of the total number of working days over the period the~~

~~leave would extend, the employer may require the employee to choose either to:~~

- ~~1. Take leave for a period or periods of a fixed duration, not greater than the duration of the planned treatment; or~~
- ~~2. Transfer temporarily to an available alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.~~

~~"Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include an uninterrupted period of leave.~~

### Unpaid Leave

~~Generally FMLA leave is unpaid. However, an employee shall substitute accumulated paid sick leave for a portion of the FMLA leave in any situation where the employee would normally be allowed to use sick leave. An employee shall also substitute accumulated personal leave for a portion of the FMLA leave.~~

~~Minnesota law allows for unpaid parental leave and for use of paid sick leave to care for dependent family members under certain circumstances. These leaves remain available under FMLA but do not extend the maximum FMLA leave for which an employee is eligible.~~

### Authorization

~~An eligible employee must ordinarily provide the Employer with 30 days advance notice when the FMLA leave is foreseeable. If 30 days advance notice is not possible, the employee will be required to give the Employer notice as soon as practical which shall normally be within two business days after the employee learns of the need for the leave. The Employer reserves the right to deny a leave request absent timely advance notice. The employee must attempt to schedule foreseeable FMLA leave so as not to unduly disrupt the Employer's operations.~~

~~An employee requesting leave shall provide to the Employer, in writing, the proposed date the leave is to commence, the approximate duration of the leave, and the qualifying reason (s) for the leave. The Employer will normally require medical certification to support a FMLA leave request either to care for an employee's seriously ill family member or because of the employee's serious health condition. The medical certification shall be provided to the Employer as soon as possible, and not more than 15 days later. The Employer reserves the right to require a second medical opinion at the Employer's expense, as allowed by the FMLA.~~

~~The Employer reserves the right to require the employee to provide recertification of the need for the leave every 30 days. Recertification may also be required sooner than every 30 days if (1) the employee requests an extension of the leave; (2) there are changed circumstances regarding the nature of the medical condition; (3) the Employer receives information casting doubt on the continued validity of the most recent certification. The Employer may request a medical fitness-for-duty report upon the employee's return to work.~~

### Benefit Continuation

~~During an approved FMLA leave, the employee and dependent health and dental insurance coverage (if any) shall be maintained on the same basis as coverage would have been provided if employee had been continuously employed during the entire leave period. Employees who receive partial employer contribution must continue to pay their portion of the premium in order to retain this coverage. If an employee fails to make their premium payment, the employee will lose coverage and will not be covered for any claims which may have occurred while on FMLA leave. However, an employee may voluntarily choose not to pay the premium and thus not retain these coverages. The coverages will be reinstated upon the employee's return to work.~~

~~An employee on FMLA leave may also continue other insurance coverages which the employee had in effect through the Employer prior to going on FMLA leave. The employee will be required to pay the full cost of the premium.~~

~~The Employer's obligation to maintain health and dental insurance benefits ceases if and when the employee informs the Employer of the employee's intent not to return from leave; if the employee fails to return from leave, thereby terminating employment; or if the employee exhausts the employee's FMLA leave entitlement. In some of these situations, employees may be entitled by law to continue their health care coverage at their own expense.~~

### Return to Work

~~An employee returning from FMLA leave of longer than one month must notify the Employer at least two weeks prior to return from leave.~~

~~An employee returning from FMLA leave shall be entitled to be restored to the same position and shift that the employee held when the FMLA leave began, or to an equivalent position and shift with equivalent benefits, pay and other terms and conditions of employment. Benefits of employment and seniority will be resumed at the same level and in the same manner as were provided at the time the leave began. Any increases in pay or changes in benefits that are not dependent upon seniority or accrual during the leave period also must be made effective upon the employee's return to work. However, an employee on FMLA leave shall not be entitled to benefit or seniority accrual during the leave except as may be required by the employee's collective bargaining agreement.~~

### Failure to Return to Work

~~If an employee on FMLA leave decides not to return to work, the employee shall notify the Employer as soon as it is foreseeable that the employee will not be returning to work.~~

~~If an employee does not return to work for reasons beyond the employee's control or because the employee has a serious health condition which prevents the employee from returning to work, then the employee will not be required to repay health insurance~~

~~premiums paid by the Employer during the FMLA leave. If the employee does not return to work for any other reason, then the employee will be required to repay the Employer for those premiums.~~

~~An employee who chooses not to return to work or is unable to return to work shall be considered to have voluntarily resigned.~~

~~Adopted: 01-23-1996 ISD 709~~