

## **Personnel**

### **Family and Medical Leave**

Pleasantdale School District 107 is committed to compliance with the Family and Medical Leave Act of 1993 (“FMLA”). The FMLA allows eligible employees to take leaves of absence, generally unpaid, for certain family and medical reasons for up to 12 weeks in a defined 12-month period, with job protection and no loss of service accumulated prior to the commencement of the leave, provided the employee returns to work. The FMLA also allows eligible employees to extend the 12 weeks leave up to a total of 26 work weeks to care for a family member who is a “covered service member” recovering from injury or illness incurred during active duty military service.

#### **I. Eligibility**

To be eligible for leave under the FMLA, an employee must:

- A. have been employed by the District for a total of at least 12 months. However, the District will not consider any period of previous employment that occurred more than 7 years before the date of the most recent hiring, except when the service break is due to National Guard or Reserve military service or when a written agreement exists concerning the District’s intention to rehire the employee.
- B. have worked at least 1,250 hours during the twelve months immediately before commencement of the leave (hours of work are defined within the meaning of the Fair Labor Standards Act and regulations) or have been a full-time classroom teacher; and
- C. work at a location where there are at least 50 employees employed by the District within 75 miles.

#### **II. Available Family and Medical Leave**

Eligible employees are entitled to take up to 12 unpaid work weeks of leave during a 12 month period for any of the following reasons:

- A. the birth and first-year care of a child of the employee;
- B. the placement of a child with the employee for adoption or foster care, including absences from work that are necessary for the adoption or foster care to proceed and expiring at the end of the 12-month period beginning on the placement date;
- C. to care for a spouse, child (who is under 18 years of age or incapable of self-care due to a disability), or parent (not parent-in-law) with a serious health condition;
- D. an employee’s own serious health condition which renders the employee unable to perform the essential functions of his or her job;
- E. to care for a spouse, son, daughter, parent, or next of kin who is a “covered servicemember” (i.e., a member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty), while the covered servicemember is undergoing medical treatment, recuperation, or therapy; is in outpatient status; or is on the temporary disability retired list; or
- F. to address “qualifying exigencies” that arise because a spouse, son, daughter, or parent is a covered military member on active duty or called to active duty status in support of a contingency operation. A “covered military member” must be either a member of a Reserve component or a retired member of the regular Armed Forces or Reserve. “Qualifying exigencies” exist in the following categories: short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, rest and recuperation, post-deployment activities, and additional activities as provided in the FMLA regulations.

For the purposes of this policy, the District will use a “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

Any leave taken for the birth or care of a child or the placement of a child for adoption or foster care must be completed within one year after the date of birth or placement.

### **III. Serious Health Conditions**

For the purposes of the FMLA, “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:

- A. inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, or any period of incapacity or subsequent treatment connected with such inpatient care; or
- B. any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities due to the condition, treatment for the condition, or recovery from treatment) which is:
  - more than three (3) consecutive calendar days and involves
    - one in-person treatment by a health care provider, a nurse under direct supervision of a health care provider, or by a provider of health care services (i.e. a physical therapist) under orders of, or on referral by a health care provider, followed by a second in-person treatment visit that occurs (absent extenuating circumstances) within 30 days of the first day of incapacity; or
    - one in-person treatment by a health care provider, a nurse under direct supervision of a health care provider, or by a provider of health care services (i.e. a physical therapist) under orders of, or on referral by a health care provider, that results in a continuing regimen of continuing treatment under the supervision of a health care provider; or
  - due to pregnancy or for prenatal care; or
  - due to a chronic condition that requires periodic visits for treatment by (or under the supervision of) a health care provider, over an extended period of time and that may cause episodic rather than a continuing period of incapacity (i.e. a “chronic serious health condition” such as asthma, diabetes, or epilepsy); or
  - permanent or long-term due to a condition for which treatment may not be effective, but for which the employee or family member is under the continuing supervision of (but need not be receiving active treatment by) a health care provider (i.e., Alzheimer’s, or terminal stages of a diseases; or
- C. any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a healthcare provider, either for restorative surgery after an accident or injury, or for a condition that would likely result in a period of incapacity of more than three consecutive

full calendar days in the absence of medical intervention or treatment such as cancer (i.e., chemotherapy, radiation, etc.) or kidney diseases (i.e., dialysis).

Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontic problems, periodontal disease, and similar afflictions are not a “serious health condition” and, therefore, do not qualify for FMLA leave.

With regard to substance abuse (including alcohol abuse), FMLA leave may only be taken for treatment of substance abuse by (or on referral from) a health care provider. Absences caused by the employee’s use of the substance, rather than for treatment, do not qualify for FMLA leave.

#### **IV. Duration and Scheduling of Leaves**

- A. Generally, the District will grant up to 12 work weeks of family and medical leave in any 12-month period (using the rolling backwards calculation) in accordance with the FMLA.
- B. Eligible employees are entitled to up to 26 work weeks of leave in a single 12-month period to care for a spouse, son, daughter, parent, or next of kin who is a “covered servicemember.” The 12-month period for leave to care for a covered servicemember begins on the first day that an employee takes leave to care for a covered servicemember. During this period, the employee is entitled to a combined total of 26 work weeks of leave for any FMLA-qualifying reason, no more than 12 weeks of which may be for reasons other than to care for a covered servicemember. This leave is applied on a per-covered servicemember, per-injury basis, meaning that an employee is entitled to only one 26-work week allotment of leave per covered servicemember (unless the covered servicemember is later re-injured in the line of active duty).
- C. Leave may be taken:
  - 1. in one 12-week period;
  - 2. in two or more leaves totaling 12 work weeks;
  - 3. intermittently in order to care for a family member, a covered servicemember, or for the employee’s own serious health condition, or when necessary due to a qualifying exigency, when medically necessary, in accordance with the FMLA;
  - 4. as part of a reduced work schedule in order to care for the employee’s or family member’s serious health condition, to care for a covered servicemember, or when necessary due to a qualifying exigency, when medically necessary, in accordance with the FMLA.
- D. Employees requiring intermittent or reduced schedule leave shall be expected to consult with the School District to work out a schedule for such leave that meets the employee’s needs without unduly disrupting the District’s operations, subject to approval by the health care provider. In some circumstances, the District may alter the employee’s existing job (while maintaining existing pay and benefits), or may temporarily transfer the employee to a different position with equivalent pay and benefits, to better accommodate the intermittent or reduced schedule leave.
- E. **Special Rules for Instructional Employees**  
For purposes of FMLA, instructional employees are those employees whose principal function is to teach and instruct students in a class, small group, or an individual setting, including teachers and athletic coaches. It does not include teacher aides who do not actually teach or instruct, social workers, curriculum specialists, or other auxiliary personnel.

1. When an instructional employee requests an intermittent or reduced leave schedule to care for a family member, a covered service member, or for the employee's own serious health condition that amounts to more than 20% of the total number of working days during the period over which the leave extends, the District may require the employee either
  1. to take leave for a particular time period not greater than the duration of the planned treatment; or
  2. to temporarily transfer to an available alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave.
2. When an employee requests a leave near the end of an academic term, the District may require the employee to continue the leave until the term is over if:
  1. the leave begins more than five weeks before the end of the term, will last at least three weeks, and return will occur during the final three weeks of the term; or
  2. the leave, taken for reasons other than the employee's own serious health condition or a qualifying exigency, begins during the last five weeks of the term, will last more than two weeks and return will occur during the final two weeks of the term; or
  3. the leave, taken for reasons other than the employee's own serious health condition or a qualifying exigency, begins during the last three weeks of the term and will last more than five working days.
  4. Any days of leave required by the District beyond the time when an employee is ready and able to return to work will not count against such employee's 12-week allotment, but the employee will have the same rights with respect to benefits and job restoration as if the period were FMLA leave.

#### **V. Where Husband and Wife Are Both District Employees**

If both the husband and wife are employed by the District and eligible for FMLA leave, they are permitted to take only a combined total of 12 weeks of leave during a 12 month period if leave is for the birth and care of a child, the placement of a child for adoption or foster care, or to care for a parent (not a parent-in-law) with a serious health condition. Likewise, if both the husband and spouse are employed by the District and are eligible for FMLA leave to care for a spouse, son, daughter, parent, or next of kin who is a covered servicemember, they are permitted to take only a combined total of 26 weeks of leave during the single 12-month period.

#### **VI. Reduced or Intermittent Leave**

An eligible employee who requests medical leave based upon the serious health condition of the employee or the employee's family member or to care for a covered servicemember, may request that such leave be taken on an intermittent or a reduced leave schedule. "Intermittent leave" is leave of one hour or more that is taken during any nonconsecutive time period (i.e., one week on, one week off). "Reduced leave" is leave that is taken by reducing the employee's usual number of working hours per work week or hours per work day (i.e., from eight hours to four hours per day). A request for either intermittent or reduced leave will be granted only where medically necessary, as established by information requested by the District's FMLA medical certification form.

#### **VII. Substitution of Paid Leave**

If the employee has any accrued vacation or sick leave, this paid time must be used during the FMLA absence before the unpaid leave begins, depending upon the reason for the leave. Sick leave may not be used for pay during an FMLA absence if the purpose of the leave does not meet the requirements for sick leave use under the School Code. In addition, if the requested leave is due to the serious health condition of the employee, any salary continuation benefits for which the employee is otherwise eligible pursuant to a disability benefit plan or workers' compensation law, may be used in conjunction with paid vacation, personal, or sick time, provided that total payments do not exceed 100% of normal base pay. All paid leave will run concurrently with the employee's FMLA leave entitlement. The employee must comply with all requirements of the policy or plan providing for paid leave.

### **VIII. Employee Notice of Leave**

An employee requesting an FMLA leave must provide notice to the District as soon as practicable. Where the need for a leave is foreseeable, the employee must provide the required notice of at least 30 calendar days advance notice prior to the expected start of the leave. If 30 days advance notice is not practicable, the employee must provide the District with as much advance notice as possible, ordinarily within one or two business days of when the need for leave becomes known to the employee. Any employee who provides less than 30 days notice of time off will be required to explain why it was not practicable for the employee to provide 30 days notice. If the employee is physically or mentally unable to notify the District, a member of employee's family or other representative must do so on the employee's behalf. If required notice is not provided, the District may delay the start of the leave to the extent of any required notice period.

If leave is due to the serious health condition of the employee or the employee's family member, and is for planned medical treatment, the employee must attempt to schedule treatment so as not to unduly disrupt District's operations.

In addition, if leave is due to the serious health condition of the employee or the employee's family member, the employee is required in all cases to provide a health care provider's certification of the serious health condition on a form that will be provided by the District at the time the request for leave is made. If leave is due to another reason, appropriate certification will be required. It is the employee's obligation to provide a complete and sufficient certification form to the District within 15 calendar days after the District requests it.

If an employee returns a certification form that is incomplete (i.e. one or more items are left blank) or insufficient (i.e. responses are vague, illegible, ambiguous, or non-responsive), the District will notify the employee of the deficiency. The employee will then have 7 calendar days to provide a complete, sufficient certification. If it is not practicable for the employee to provide a complete and sufficient certification form within 15 days despite the employee's diligent, good faith efforts to do so, the employee must contact the School District to explain his or her situation.

The District, after giving the employee an opportunity to cure any deficiencies, may contact the health care provider to authenticate a completed certification form by providing the health care provider a copy of the form and requesting verification that the information contained on the form was written or authorized by the health care provider who signed the document.

Additionally, the District may request clarification of information on the certification form, and may ask the employee to sign, or have his or her family sign, a release form authorizing the health care provider to communicate with the District for the purpose of clarifying the certification. If the certification is unclear and the employee fails to provide a signed authorization or otherwise clarify the certification, the District may deny the employee's request for FMLA leave.

With respect to the medical certification of a serious health condition, the District has the right to require the employee to obtain a second certification at the District's expense from a health care provider designated by the District. In the event of conflicting opinions, the District may require the employee to obtain certification from a third health care provider who is designated or approved jointly by the District and the employee, again at the District's expense. The third opinion will be final and binding.

### **IX. Reporting Requirements During The Leave**

During FMLA leave, the employee is required to maintain contact with the District to verify his or her status and intent to return to work. Where the leave is due to the serious health condition of the employee or the employee's family member, the District may require the employee to submit a complete and sufficient recertification of the serious medical condition on a reasonable basis (generally not more often than every 30 days), and will require recertification if the employee requests a leave extension, if the circumstances described in the original certification change significantly, or if the District receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

The employee is responsible for timely requesting any desired extension of FMLA leave. Extension of a leave should be requested, if circumstances allow, at least two business days prior to the expiration of the initial leave.

#### **X. Requirements Prior To Return From Leave**

Where the leave lasts more than three consecutive work days (or for an absence of a shorter duration that gives rise to a reasonable safety concern regarding the employee's ability to safely perform his or her job) and is based upon the employee's own serious health condition, before returning to work the employee must provide a complete and sufficient medical certification from his or her health care provider that the employee is able to resume work before the employee will be permitted to return to work. This confirmation must specifically confirm that the employee is able to perform the essential functions of his or her position, as set forth in the job description provided to the employee by the District.

#### **XI. Compensation and Benefits**

- A. Family and medical leaves granted under this policy are unpaid, except that the employee is required to substitute accrued paid leave (see Section VII above) before unpaid medical leave is provided. The total of paid and unpaid leave for FMLA leave under this policy may not exceed 12 weeks.
- B. An employee on FMLA leave will continue to be covered under the District's health insurance and dental plans under the same terms as if the employee had been continuously working during the leave period, provided that:
  - 1. coverage shall end when the employee notifies the District of his or her intent not to return to work, fails to return on the scheduled date or exhausts his or her family and medical leave rights under this policy;
  - 2. the employee will be required to pay his or her share of applicable premium payments at the same time as such payments would be made if by payroll deduction. Coverage may lapse if an employee's premium payment is more than 30 days late.
  - 3. the District may recover its premium cost if the employee fails to return to work following an approved, unpaid leave unless the reason for the failure to return is due to the recurrence or onset of an injury or illness of a covered servicemember a serious health condition of the employee, spouse, parent or child or other circumstances beyond the employee's control. In this event, the District may require a certification of the existence of a serious health condition that the employee must provide within 30 days of the request.

#### **XII. Employment Status**

- A. Consistent with District policy for all types of leave, the employee will not accrue seniority or benefits that accrue according to length of service (e.g. paid vacations), during an approved leave:
- B. Upon the conclusion of an approved leave, the employee will generally be restored to his or her former position or to an equivalent position as established by School Board policies and practices and any applicable collective bargaining agreement (with respect to pay, benefits and other terms and conditions of employment) with any general pay increases or benefits enhancements granted during the leave, provided that:
  - 1. an employee returning from leave has no greater rights to a position or benefits than had he or she been continuously working during the leave period (e.g. in the case of lay-off):
  - 2. where the employee seeks an intermittent/reduced schedule medical leave, the District may temporarily transfer the employee to an available alternative position with equivalent pay and benefits for which the employee is qualified if the transfer better accommodates the requested recurring periods of leave:

3. in the case of “key” employees (a salaried FMLA-eligible employee who is among the highest paid 10% of employees), the District may notify the employee (personally or by certified mail) at the time leave is requested that restoration of the employee would cause substantial and grievous economic injury to the District’s operations and may deny reinstatement to that employee unless the employee elects to return to work after receiving such notice (provided the District determines that such injury would result from the employer’s restoration); and
4. an employee on an approved leave may not perform work for another employer during that leave in violation of the District’s policy regarding outside employment.

### **XIII. Prohibitions**

Consistent with the District’s policy regarding all types of leave, the following conduct is strictly prohibited in relation to FMLA leave:

- A. Engaging in fraud, misrepresentation or providing false information to the District or any health care provider.
- B. Having other employment during the leave, without prior written approval from the District.
- C. Failure to comply with the employee’s obligations under this policy.
- D. Failure to timely return from the leave.

Employees who engage in such conduct will be subject to loss of benefits, denial or termination of leave, and discipline, up to and including discharge.

The Superintendent will develop procedures to implement this policy consistent with the federal Family Medical Leave Act, and will ensure that all required notices and responses to leave requests are provided to employees in accordance with the FMLA. The terms used in this policy shall be defined as in the FMLA Regulations, 29 C.F.R. Part 825.

LEGAL REF.: 29 U.S.C., Sections 2601 to 2654  
29 C.F.R. Part 825.

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