

In accordance with the provisions of the Family Medical Leave Act (FMLA) of 1993, a leave of absence of up to twelve 12 weeks during a 12-month period may be granted to an eligible employee for the following reasons:

1. The birth of a child;
2. The placement of a child for adoption or foster care with the employee;
3. A serious health condition that makes the employee unable to perform the functions of the job;
4. To care for the employee's spouse, child, or parent with a serious health condition; or
5. For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent of the employee is on active duty status, or has been notified of an impending call to active duty status, in the Armed Forces.

An employee is eligible to take FMLA leave if the employee has been employed for at least 12 months, and has worked at least 1,250 hours during the 12 months immediately prior to the date when the leave is requested. Further, an employee may only be eligible if there are at least 50 District employees within a 75 mile radius.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12 month period to care for the service members.

Employees will be required to use appropriate paid leave while on FMLA Leave. Workers Compensation absences when appropriate will be designated FMLA Leave.

The Board has determined that the 12 month period during which an employee may take FMLA leave is 12 months forward from the date of a particular employee's first FMLA leave.

A medical certification from a healthcare provider shall be required to determine FMLA initial or continued eligibility as well as fitness for duty. The District reserves the right to request a second opinion, as per the Family Medical Leave Act of 1993 Fact Sheet #28G.

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**Legal References**

29 CFR Part 825  
Pub. L. 103-3  
Pub. L. 110-181

**Description**

Implementing the Family Medical Leave Act of 1993  
Family Medical Leave Act of 1994 (FLMA)  
National Defense Authorization Act (NDAA) for FY  
2008

**Cross References**

<b>Code</b>	<b>Description</b>
5420	Long-Term Illness/Temporary Disability
5420-P(1)	Long-Term Illness/Temporary Disability
Policy 544.60	Unpaid Leave of Absence/Leave without Pay

It is the policy of the Board of Trustees of Minidoka County Joint School District No. 331 to implement regulations providing appropriate family and medical leave for all eligible employees in accordance with the laws mentioned within that act.

Please refer to the attached Family and Medical Leave Act Guidelines which become policy by inclusion.

**Your Rights Under the Family and Medical Leave Act of 1993**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

**Reasons for Taking Leave:**

Unpaid leave must be granted for any of the following reasons: to care for the employee's child after birth, or placement for adoption or foster care; to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

**Advance Notice and Medical Certification:**

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met. The employee ordinarily must provide 30 days advanced notice when the leave is "foreseeable." An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

**Job Benefits and Protection:**

For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan." Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**Unlawful Acts by Employers:**

~~FMLA makes it unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under FMLA; discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.~~

**Enforcement:**

~~The U.S. Department of Labor is authorized to investigate and resolve complaints of violations. An eligible employee may bring a civil action against an employer for violations.~~

~~FMLA does not affect any Federal or State Law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.~~

**For Additional Information:**

~~Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.~~



**LEGAL REFERENCE: Family & Medical Leave Act of 1993**

**29 USC 2654**

**58 CFR 31812 through 31839**

**ADOPTED: March 22, 1994**

**AMENDED/REVISED:**

**REVIEWED: January 20, 2014**