

1 **Browning Public Schools**

2  
3 Policy: #5328P

4 Policy Name: *Family Medical Leave*

5 Regulation:

6  
7 **Who Is Eligible**

8 Employees are eligible if they have worked for the District for at least one (1) year, and for one  
9 thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and if there have  
10 been at least fifty (50) District employees within seventy-five (75) miles for each working day  
11 during twenty (20) or more workweeks in the current or preceding calendar year.

12  
13 **Benefit**

14 Under certain conditions, eligible employees, if qualified, may be entitled to up to twelve (12)  
15 weeks or twenty-six (26) weeks leave with continuing participation in the District’s group  
16 insurance plan.

17  
18 **Reasons for Taking Leave**

19 Unpaid leave will be granted to eligible employees for any of the following reasons:

- 20  
21 a. To care for the employee’s child after birth, or placement for adoption or foster care;  
22 b. To care for the employee’s spouse, child, or parent (does not include parents-in-law) who  
23 has a serious health condition; or  
24 c. For a serious health condition that makes the employee unable to perform the employee’s  
25 job.  
26 ~~d. To care for the employee’s spouse, children, parents, or next of kin wounded while~~  
27 ~~servicing in the U.S. military.~~  
28 ~~e. When leave is due to a “qualifying exigency”.~~

29  
30 **Military Family Leave**

31 **a. Military Caregiver Leave**

32 **An eligible employee who is a relative of a servicemember can take up to 26 weeks in a**  
33 **12 month period in order to care for a covered servicemember who is seriously ill or**  
34 **injured in the line of duty**

35 **b. Qualified Exigency Leave**

36 **An eligible employee can take up to the normal 12 weeks of leave if a family member is**  
37 **on covered active duty. Covered active duty includes duty of a member of a regular**  
38 **component of the Armed Forces during deployment to a foreign country, and duty of a**  
39 **member of a reserve component of the Armed Forces during deployment to a foreign**  
40 **country under a call or order to active duty in support of specified contingency**  
41 **operations.**

42  
43 **Qualifying Exigencies include:**

- 44 **a. Short-notice deployment**  
45 **b. Military events and related activities**  
46 **c. Childcare and school activities**

- 1 d. Financial and legal arrangements
- 2 e. Counseling
- 3 Rest and recuperation
- 4 f. Post-deployment activities; and
- 5 g. Additional activities agreed to by the employer and the employee.

#### 7 Substitution of Paid Leave

8 Paid leave will be substituted for unpaid leave under the following circumstances:

- 9 a. Accumulated sick/personal leave will be utilized concurrently with any FMLA leave that
- 10 is taken for a serious health reason as described in (b) or (c) above.
- 11 b. Accumulated vacation/personal leave will be utilized concurrently with any FMLA leave
- 12 that is taken for a family reason as described in (a) above.
- 13 c. Accumulated sick leave will be utilized concurrently with FMLA leave, whenever the
- 14 FMLA leave is taken for reasons which qualify for sick leave benefits pursuant to District
- 15 policy or an applicable collective bargaining agreement.
- 16 d. Whenever appropriate workers' compensation absences shall be designated FMLA leave.
- 17 e. Service member FMLA runs concurrent with other leave entitlements provided under
- 18 federal, state and local law.

#### 20 When Both Parents Spouses Are District Employees

21 If both parents of a child are employed by the District, they each are entitled to a total of twelve  
22 (12) weeks of leave per year. However, leave may be granted to only one (1) parent at a time,  
23 and only if leave is taken: (1) for the birth of a child or to care for the child after birth; (2) for  
24 placement of a child for adoption or foster care, or to care for the child after placement; or (3) to  
25 care for a parent (but not a parent-in-law) with a serious health condition.

27 If spouses are employed by the same employer, the aggregate number of weeks of leave that can  
28 be taken is twenty-six (26) weeks in a single twelve (12) month period for serviceperson leave or  
29 a combination of exigency and serviceperson leave. The aggregate number of weeks of leave  
30 that can be taken by a husband and wife who work for the same employer is twelve (12) weeks if  
31 for exigency leave only.

33 **When spouses work for the same employer and each spouse is eligible to take FMLA leave,  
34 the FMLA limits the combined amount of leave they may take for some, but not all,  
35 FMLA-qualifying leave reasons.**

37 **For purposes of FMLA leave, spouse means a husband or wife as defined or recognized in  
38 the state where the individual was married and includes individuals in a common law or  
39 same-sex marriage. Spouse also includes a husband or wife in a marriage that was validly  
40 entered into outside of the United States, if the marriage could have been entered into in at  
41 least one state.**

43 **Eligible spouses who work for the same employer are limited to a combined total of 12  
44 workweeks of leave in a 12-month period for the following FMLA-qualifying reasons:**

- 46 • the birth of a son or daughter and bonding with the newborn child,

- the placement of a son or daughter with the employee for adoption or foster care and bonding with the newly-placed child, and
- the care of a parent with a serious health condition.

Eligible spouses who work for the same employer are also limited to a combined total of 26 workweeks of leave in a single 12-month period to care for a covered servicemember with a serious injury or illness (commonly referred to as “military caregiver leave”) if each spouse is a parent, spouse, son or daughter, or next of kin of the servicemember. When spouses take military caregiver leave as well as other FMLA leave in the same leave year, each spouse is subject to the combined limitations for the reasons for leave listed above.

The limitation on the amount of leave for spouses working for the same employer does not apply to FMLA leave taken for some qualifying reasons. Eligible spouses who work for the same employer are each entitled to up to 12 workweeks of FMLA leave in a 12-month period, without regard to the amount of leave their spouses use, for the following FMLA-qualifying leave reasons:

- the care of a spouse or son or daughter with a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job; and
- any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military member on “covered active duty.”

#### Advance Notice

Employees must provide thirty (30) days advance notice when the leave is “foreseeable.” In other situations an employee must give notice as soon as practicable. Leave may be allowed in emergency situations when no advance warning is possible. Inexcusable delays in notifying the District may result in the delay or denial of leave.

#### Employee Notice Requirement

The employee must follow the employer’s standard notice and procedural policies for taking FMLA.

#### Employer Notice Requirement (29 C.F.R. §825.300)

Employers are required to provide employees with notice explaining the FMLA through a poster and either a handbook or information upon hire. If an employee requests FMLA leave, an employer must provide notice to the employee within five (5) business days of whether the employee meets the FMLA eligibility requirements. If an employee is not eligible to take FMLA, the employer must provide a reason. The employer must also provide a rights and responsibilities notice outlining expectations and obligations relating to FMLA leave. If FMLA leave is approved by the employer, it must provide the employee with a designation notice stating the amount of leave that will be counted against an employee’s FMLA entitlement.

#### Notice For Leave Due To Active Duty Of Family Member

In any case in which the necessity for leave is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending

1 call or order to active duty in support of a contingency operation, the employee shall provide  
2 such notice to the employer as is reasonable and practicable.

3  
4 **Requests**

5 A sick leave request form is to be completed whenever an employee is absent from work for  
6 more than three (3) days or when an employee has need to be absent from work for continuing  
7 treatment by (or under the supervision of) a health care provider.

8  
9 An employer may require that a request for leave be supported by a certification issued at such  
10 time and in such manner as the Secretary may by regulation prescribe. If the Secretary issues a  
11 regulation requiring such certification, the employee shall provide, in a timely manner, a copy of  
12 such certification to the employer.

13  
14 **Medical Certification**

15 The District will require medical certification to support a request for leave or any other absence  
16 because of a serious health condition (at employee expense) and may require second or third  
17 opinions (at the employer's expense) and a fitness-for-duty report or return-to-work statement.

18  
19 **Intermittent/Reduced Leave**

20 FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain  
21 circumstances. Where leave is taken because of birth or placement of a child for adoption or  
22 foster care, an employee may take leave intermittently or on a reduced leave schedule only with  
23 District approval. Where FMLA leave is taken to care for a sick family member or for an  
24 employee's own serious health condition, leave may be taken intermittently or on a reduced  
25 leave schedule when medically necessary. An employee may be reassigned to accommodate  
26 intermittent or reduced leave. When an employee takes intermittent leave or leave on a reduced  
27 leave schedule, increments will be limited to the shortest period of time that the District's payroll  
28 system uses to account for absences or use of leave.

29  
30 **Insurance**

31 An employee out on FMLA leave is entitled to continued participation in the appropriate group health plan,  
32 but it is incumbent upon the employee to continue paying the usual premiums throughout the leave period.  
33 An employee's eligibility to maintain health insurance coverage will lapse if the premium payment is more  
34 than thirty (30) days late. The District will mail notice of delinquency at least fifteen (15) days before  
35 coverage will cease. If an employee is unable to return to work after exhausting their FMLA benefit, they  
36 will no longer meet the eligibility requirements for the district adopted health care plan and will be required  
37 to pay all premium expenses to maintain coverage. The District will mail notice of ineligibility at least  
38 fifteen (15) days before coverage premiums will become the responsibility of the employee.

39  
40 **Return**

41 Upon return from FMLA leave, reasonable effort shall be made to place the employee in the  
42 original or equivalent position with equivalent pay, benefits, and other employment terms.

43  
44 **Recordkeeping**

45 Employees, supervisors, and building administrators will forward requests, forms, and other  
46 material to payroll to facilitate proper recordkeeping.

1 **Summer Vacation**

2 The period during the summer vacation or other scheduled breaks (i.e., Christmas) an employee  
3 would not have been required to work will not count against that employee’s FMLA leave  
4 entitlement.

5  
6 ***SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES***  
7

8 **Leave More Than Five (5) Weeks Before End of Term**

9 If an instructional employee begins FMLA leave more than five (5) weeks before the end of  
10 term, the District may require the employee to continue taking leave until the end of a semester  
11 term, if:

- 12
- 13 a. The leave is at least three (3) weeks; and
  - 14 b. The employee’s return would take place during the last three-(3)-week period of the  
15 semester term.
- 16

17 **Leave Less Than Five (5) Weeks Before End of Term**

18 If an instructional employee begins FMLA leave for a purpose other than that employee’s own  
19 serious health condition less than five (5) weeks before the end of term, the District may require  
20 the employee to continue taking leave until the end of a semester term, if:

- 21
- 22 a. The leave is longer than two (2) weeks; and
  - 23 b. The employee’s return would take place during the last two-(2)-week period of the  
24 semester term.
- 25

26 **Leave Less Than Three (3) Weeks Before End of Term**

27 If an instructional employee begins FMLA leave for a purpose other than that employee’s own  
28 serious health condition less than three (3) weeks before the end of term, the District may require  
29 the employee to continue taking leave until the end of the academic term if the leave is longer  
30 than five (5) days.

31  
32 **Intermittent or Reduced Leave**

33 Under certain conditions, an instructional employee needing intermittent or reduced leave for  
34 more than twenty percent (20%) of the total working days over the leave period may be required  
35 by the District to:

- 36
- 37 a. Take leave for a period(s) of particular duration not to exceed the duration of treatment; or
  - 38 b. Transfer to an alternate but equivalent position.
- 39

40 **Procedure History:**

41 Adopted on: 9/30/08

42 Reviewed on:

43 Revised on: 1/27/16, 4/13/21