

# FAMILY AND MEDICAL LEAVE

## POLICY

In accordance with Federal Law, the Board shall provide up to twelve (12) weeks of unpaid FMLA leave in any twelve (12) month period to eligible employees who have been employed for at least 1,250 hours during the preceding twelve (12) months. The FMLA will be calculated on a rolling twelve (12) month period measured forward from the date leave is taken and continuous with each additional leave day taken for the following reasons:

- A. the birth of a child and/or the care of a newborn child;
- B. the placement of a child with the employee by way of adoption or foster care;

The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

- C. to care for employee's spouse, parent or dependent child if such individual has a serious health condition;
- D. the employee's own serious health condition prevents him/her from performing the functions of his/her position.

**Service member FMLA** provides eligible employees unpaid leave for one, or for a combination, of the following reasons:

- A. a "qualifying exigency" arising out of a covered family member's (spouse, son, daughter or parent) active duty or call to active duty in the United States Armed Forces in support of a contingency plan, as defined by Federal regulations.
- B. to care for a covered family member, including next of kin, who has incurred an injury or illness in the line of duty while on active duty in the United States Armed Forces, including the National Guard and Reserves, provided that such injury or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating

### **Duration of Service Member FMLA**

- A. When leave is due to a "Qualifying Exigency": An eligible employee may take up to twelve (12) work weeks of leave during any twelve (12) month period.
- B. When leave is to care for an injured or ill service member: An eligible employee may take up to twenty-six (26) work weeks of leave during a single twelve (12) month period to care for the service member who is undergoing medical treatment,

recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This is a one time benefit per service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) weeks in a single twelve (12) month period.

- C. Service Member FMLA runs concurrent with other leave entitlements provided under Federal, State, and local law.

### **General FMLA Provisions**

Serious health condition is defined (per The Family and Medical Leave Act of 1993) as an illness, injury, impairment, or physical or mental condition that involves:

- A. Inpatient care, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
- B. Continuing treatment by a healthcare provider, including:
  - 1. A period of incapacity of more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition, that also involves either treatment two (2) or more times by a healthcare provider, or treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of a healthcare provider;
  - 2. Any incapacity due to pregnancy or for prenatal care;
  - 3. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
  - 4. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective;
  - 5. Any period of absence to receive multiple treatments by a healthcare provider either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive days in the absence of medical intervention or treatment, such as but not limited to, cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

- C. Conditions for which cosmetic treatment are administered are not "serious health conditions" unless inpatient hospital care is required or complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomachs, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, periodontal disease, etc., are conditions that do not meet this definition and do not qualify for FMLA leave.

Whenever the leave is foreseeable, the employee shall provide the Superintendent or designee with thirty (30) day's notice. If there is not sufficient time to provide such notice because of the need for treatment, the employee shall provide such notice as early as practicable. When planning medical treatment, the employee must inform the Superintendent or designee and make a reasonable effort to schedule the leave so as not to unduly disrupt the regular operation of the District, subject to the approval of the healthcare provider.

The Board shall require the employee to substitute all of his/her earned or accrued paid vacation leave, paid absence days (per the applicable collective bargaining agreement) for unpaid FMLA leave.

If the employee has not earned or accrued adequate paid leave to encompass the entire twelve (12) week period of FMLA leave, where applicable, the additional weeks of leave to obtain the twelve (12) weeks of FMLA leave the employee is entitled to shall be unpaid. Whenever a employee uses paid leave in substitution for unpaid FMLA leave, such leave counts toward the twelve (12) week maximum leave allowance provided by this policy

The Superintendent or designee may allow an employee to take FMLA leave intermittently or on a reduced-leave schedule. The taking of such leave results in the total reduction of the twelve (12) weeks only by the amount of leave actually taken.

Instructional employees (i.e. individuals whose principal function is to teach and instruct students in a class, a small group, or an individual setting) who request intermittent leave or a reduced-leave schedule which would exceed twenty percent (20%) of the total number of working days over the period of anticipated leave may be required to elect either to:

- A. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- B. Transfer temporarily to an available alternative position offered by the Superintendent or designee for which the instructional employee is qualified, and that has equivalent pay and benefits and that better accommodates the recurring periods of leave than the employee's regular position.

The Superintendent or designee will notify the employee when the District intends to designate leave as FMLA-qualifying. If the Superintendent or designee does not have sufficient information about the reason for an employee's use of paid leave, the Superintendent or designee may inquire further to ascertain whether the paid leave is FMLA-qualifying. Once the Superintendent or designee learns that a paid leave is for an FMLA leave-qualifying reason, the Superintendent or designee will promptly notify the employee that the paid leave will count toward the employee's twelve (12) week FMLA-leave entitlement.

In cases in which the Board employs both spouses, the total amount of FMLA leave is twelve (12) weeks for the couple, except when the leave is due to the serious health condition of either spouse or a child.

When FMLA leave is taken the employee must provide medical certification from the healthcare provider to the Superintendent or designee.

When the need for FMLA leave is foreseeable and at least thirty (30) days notice has been provided, the employee must provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the Superintendent or designee within fifteen (15) calendar days after the employee requests FMLA leave or the FMLA leave may be delayed or denied.

The Board reserves the right to obtain, at its expense, the opinion of a second healthcare provider and, in the event of conflict, the opinion of a third healthcare provider whose decision shall be binding and final.

In the event the employee fails to provide the medical opinion of the second or third healthcare provider, if applicable, any leave taken by the employee will not qualify for FMLA leave.

An employee who takes leave for his/her own serious health must provide prior to returning to work a statement to the Superintendent or designee from his/her healthcare provider that s/he is able to resume work. When practicable, the return to work notice must be received by the Superintendent or designee five (5) days prior to return to work.

Upon return from any FMLA leave, the Board will restore the employee to his/her former position or to a position with equivalent employment benefits, pay and conditions of employment; except for those employees designated as "highly compensated employees."

During FMLA leave, the Board shall maintain the employee's current coverage under the Board's group health insurance program on the same conditions as coverage would have been provided if the employee had been continuously working during the leave period. If the employee was paying all or part of the premium payments prior to going on FMLA leave, the employee must continue to pay his/her share during the leave.

Any leave or return from leave during the last five (5) weeks of an academic term shall be reviewed individually by the Superintendent or designee to minimize disruption to the students' program. Special rules under the FMLA may apply for instructional staff.

The employee shall not accrue any sick leave, vacation, or other benefits during a period of unpaid FMLA leave.

The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

If the employee fails to return to work at the end of the leave for reasons other than the continuation, recurrence, or onset of a serious health condition of the employee or of the employee's immediate family member, or for circumstances beyond the control of the employee, the employee shall reimburse the Board for the health insurance illustrative rate paid by the Board during the unpaid FMLA leave period.

An employee who fraudulently obtains FMLA leave is not protected by this policy's job restoration or maintenance of health benefits provisions.

The Superintendent or designee shall prepare any guidelines that are appropriate for this policy and ensure that the policy is posted properly.

The Superintendent or designee shall provide a copy of the policy upon the request of a employee.

29 U.S.C. 2601 et seq.  
29 C.F.R. Part 825

P.L. 110-181, Sec. 585 – National Defense Authorization Act (January 28, 2008)

Forms are available in the Human Resources Office or on the District's website [www.fitz.k12.mi.us](http://www.fitz.k12.mi.us) under the Administration tab, Human Resources.