

Related Entries: (Not identified at this time)

### Family and Medical Leave

All provisions of this Rule shall be interpreted so as to comply with the requirements, including definitions, of the Family and Medical Leave Act (FMLA) of 1993, and any applicable implementing regulations. No provision in this Rule shall operate to limit or reduce leaves provided for in any relevant collective bargaining unit agreement.

- (1) Eligible Employee - Any employee who has worked for the Lee County School District for at least twelve (12) months, and for at least seven hundred twenty-four (724) hours during the year preceding the start of the leave.
- (2) Reasons for Leave - Eligible employees shall be granted FMLA leave for the following:
  - (a) To care for the employee's child after birth, or following placement for adoption or foster care.
  - (b) To care for the employee's spouse, son, daughter, or parent, who has a serious health condition.
  - (c) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.
  - (d) For any qualifying exigency arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation.
  - (e) To care for a covered service member with a serious illness or injury incurred in the line of duty while on active duty. Such eligible employees shall be permitted to take up to twenty-six (26) work weeks of leave in a twelve (12) month period.
- (3) Leave Entitlement - An eligible employee is entitled to take up to a total of twelve (12) work weeks of FMLA leave in a twelve (12) month period, to be measured backwards from the commencement date the employee uses FMLA leave. An eligible employee taking leave under paragraph (2)(e) shall be permitted to take up to twenty-six (26) work weeks of leave in a twelve (12) month period.
- (4) Intermittent Leave for Planned Medical Treatment - FMLA leave may be taken intermittently whenever it is medically necessary to take care of a seriously ill spouse, child or parent of the employee, to care for a covered service member with a serious

illness or injury incurred in the line of duty while on active duty or because of the employee's own serious health condition making the employee unable to work. Intermittent leave may be taken in increments of one or more days or partial days. Certification of the need for intermittent leave, and the leave schedule, shall be provided by the health care provider. Employees needing intermittent FMLA leave must attempt to schedule their leave so as to minimize disruption to the District's operations. The District may assign an employee to an alternative position on a temporary basis with equivalent pay and benefits that better accommodates the employee's intermittent leave schedule. Intermittent FMLA leave must be requested by the employee in writing at least thirty (30) days in advance, or as soon as is practicable.

- (5) Maintenance of Group Medical Insurance - The Board shall maintain an employee's medical insurance coverage during FMLA leave to the same extent and under the same conditions coverage was provided to the employee prior to taking FMLA leave, for a period not to exceed twelve (12) weeks during the applicable twelve (12) month period and for twenty-six (26) work weeks during the applicable twelve (12) month period if eligible for leave under paragraph (2)(e) of this policy. If the employee was paying all or a portion of the premium payments prior to going on FMLA leave, the employee shall continue to pay his/her share during the leave. Medical insurance premiums which had been paid by the employee prior to FMLA leave for any dependent coverage must continue to be paid by the employee during the FMLA leave period. If such payments are not made by the employee, the dependent's insurance coverage will lapse and no benefits will be paid for claims incurred while the policy has lapsed. When the employee is reinstated, and payroll deduction of dependent's premiums resumes, the dependent's insurance will be reinstated with the same coverage as prior to the lapse.

- (6) Notice - Employees must request FMLA leave in writing, directed to Human Resources, at least thirty (30) calendar days in advance, or as early as is practicable. The time for the start of the leave may be delayed for up to thirty (30) days for failure to provide timely notice. An employee using intermittent leave under the FMLA must follow the work site's usual and customary call-in procedures for reporting an absence, absent unusual circumstances.

- (7) Job Restoration - Upon return from FMLA leave, an employee shall be restored to the same or an equivalent position. An equivalent position must be at the same pay, benefits, and working conditions, include the same privileges, prerequisites and status, and involve the same or substantially similar duties and responsibilities. The equivalent position must be located at the same or geographically proximate work site unless the employee's request for transfer has been accepted.

- (8) Failure to Return - At the start of any FMLA leave, the employee must state whether he/she intends to return at the end of the leave. If the employee does not intend to return, the employee will be deemed to have resigned voluntarily, and no FMLA benefits will be provided. If the employee states that he/she intends to return, and then fails to return, for reasons other than 1) the continuation of a serious health

condition of the employee or a covered family member, or 2) circumstances beyond the employee's control (certification required within thirty (30) days of failure to return for either reason), the employee must promptly reimburse the Board for the cost of insurance provided by the Board during the leave. If the employee fails to do so, the Board may take action to recover the premiums paid.

- (9) Application of Paid Leave - Employees are required to use paid accrued sick leave before any FMLA leave is taken as a result of a serious health condition. Employees are required to use any paid accrued vacation before any FMLA leave is taken. Any such paid accrued leave taken will be counted toward the allowable twelve (12) weeks of FMLA leave.

- (10) Medical Certification - Employees requesting FMLA leave due to a serious health condition of the employee, or of the employee's spouse, child or parent, are required to submit a certification from a health care provider, verifying that the leave is medically necessary. Form WH-380 shall be used. The Board may require an employee to obtain a second medical certification, at the Board's expense. The second health care provider may not be employed on a regular basis by the District. If the opinions of the first and second health care provider differ, the Board may require a third medical certification, again at the Board's expense, from a health care provider selected by the employee from a mutually agreed upon list maintained by Insurance and Benefits. The third opinion shall be final and binding. In all cases, the Board may request a recertification of an on-going condition every six (6) months in conjunction with an absence.

- (11) Fitness-for-Duty Certification - As a condition of restoration of an employee who has taken FMLA leave due to the employee's serious health condition, the employee is required to provide certification from the employee's health care provider that the employee is able to resume work, i.e., is fit for duty and has the ability to perform the essential functions of the employee's job. If an employee is taking intermittent leave and reasonable job safety concerns exist, the Board may require a fitness for duty certification before the employee may return to work.

**STATUTORY AUTHORITY:** 29 U.S.C. §2601, et seq.; 1001.41, 1001.42, 1001.43, 1012.23, F.S.

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