

FAMILY MEDICAL LEAVE POLICY

2.0 General Statement of Policy: Employees are entitled to family and medical leave under the Federal Family and Medical Leave Act of 1993 or the Maine Family Medical Leave Law, whichever is applicable, when they meet all of the eligibility requirements of those laws. The school department will grant job protected unpaid Federal family and medical leave to eligible employees for up to twelve (12) weeks, per twelve (12) month period for any one of more of the following reasons:

- 1.1 The birth of a child and in order to care for such child or the placement of child with the employee for adoption or foster care. Leave taken for this reason must be taken within the twelve (12) month period following the child's birth or placement with the employee; or
- 1.2 In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or
- 1.3 The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

2.0 For the purposes of this policy, the following definitions will apply:

- 2.1 Twelve Month Period - A continuous twelve (12) month period beginning with the first date of the leave.
- 2.2 Spouse - If both parties work for the school department, their total leave entitlement in any twelve (12) month period may be limited to a combined total of twelve (12) work weeks for the birth of their newborn child, for placement of their child for adoption or foster care, and to care for a parent who has a serious health condition.
- 2.3 Child - A child means either a person under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one of whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, or step child. If the leave is being taken pursuant to the State family and medical leave act, the age of the child is sixteen (16) years of less.
- 2.4 Serious Health Condition - A serious health condition means illness, injury, impairment, or a physical or mental condition that involves:
  - 2.4.a. Inpatient care requiring an overnight stay in a hospital, hospice, or residential medical care facility and any period of incapacity or subsequent treatment in connection with such inpatient care.
  - 2.4.b. Any period of incapacity requiring the absence from work for more than three (3) calendar days and that involves continuing treatment by a health care provider,
  - 2.4.c. Continuing treatment by a health care provider for a chronic serious health condition, which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity.

- 2.4.d. A permanent or long-term condition for which treatment may not be effective under the supervision of a health care provider.
- 2.4.e. Continuing treatment for a condition if left untreated would likely result in a period of incapacity more than three (3) calendar days.
- 2.4.f. Pregnancy or prenatal care by healthcare provider.

## 2.5 Continuing Treatment

- 2.5.a. Two (2) or more visits to a health care provider.
- 2.5.b. Two (2) or more treatments by a health care provider on referral from, or under the direction of, a health care provider.
- 2.5.c. A single visit to a health care provider that results in a regimen of continuing treatment.
- 2.5.d. In the case of permanent, long-term, or chronic condition or disability for which treatment may not be effective, being under the continuing supervision or but not necessarily being actively treated by, a health care provider.

## 2.12 Health Care Provider: Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctors practice:

- 2.6.a. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice under state law.
- 2.6.b. Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice, and performing within the scope of their practice as defined under state law.
- 2.6.c. Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts.
- 2.6.d. Any health care provider recognized by the employer or the employer's group health plan benefits manager.

## 2.7 Coverage and Eligibility: To be eligible for Federal family or medical leave, the employee must have worked for the school department for at least twelve (12) months and 1250 hours in the twelve (12) months preceding the beginning of the leave.

## 2.8 Intermittent or Reduced Leave: An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when medically necessary.

- 2.8.a Medically necessary means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

- 28.b The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.
  - 2.8.c An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the Superintendent's consent.
  - 2.8.d When intermittent leave is needed to care for an immediate family member of the employee's own illness is a planned medical treatment, the employ must try to schedule treatment so as not to unduly disrupt the employer's operation.
  - 2.8.e For part-time employees, the family and medical leave entitled is calculated on a pro rata basis. A weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave will be used for calculating the employee's normal schedule.
- 2.9 Special Provisions for Teachers: If the leave begins more than five (5) weeks prior to the end of an academic term and the leave is of at least three (3) weeks duration, the teacher will be required to continue on leave until the end of the academic term.
- 2.9.a If the leave begins within five (5) weeks of the end of the academic term and the leave is greater than two (2) weeks in duration, the teacher will be required to continue on leave until the end of the academic term.
  - 2.9.b If the leave begins within three (3) weeks before the end of the academic term and the leave is greater than five (5) days, the employee will be required to continue on leave until the end of the academic term.
  - 2.9.c If the leave is intermittent medical leave that is foreseeable based on planned medical treatment and the teacher would be on leave for more than 20% of the total number of working days, the teacher could elect to take leave for the duration of the treatment or transfer temporarily to an available alternative position offered by the school department.
- 2.10 Coordination Without Leave: When leave is taken that qualifies both as family and medical leave and is permitted leave under any employment contract, collective bargaining agreement, or policy, the employees that use family and medical leave and other types of leave concurrently, provided that the employee meets all of the eligibility requirement for each type of leave. Types of leave that will run concurrently with family and medical leave include, but are not necessarily limited to sick leave, unpaid leave, vacation, personal leave, disability leave, absence for work-related injuries, and any other applicable types of leave.
- 2.11 Notice Requirement: An employee is required to give a thirty (30) days' notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form must be completed by the employee and returned to the Superintendent. In unexpected or unforeseeable situations, an employee must provide as much notice as is practical, usually verbal notice within one or two business days of when the need of leave becomes known, followed by a completed "Request for Family/Medical Leave" form.

- 2.11.a If an employee fails to give thirty (30) days' notice for a foreseeable leave with no reasonable excuse for the delay, the leave will be denied until thirty (30) days after the employee provides notice.
- 2.12 Medical Certification: For leaves taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form and return the certification to the Superintendent. Medical certification must be provided by the employee within fifteen (15) days after requested, or as soon as is reasonably possible.
- 2.12.a. The school department may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and fitness-for-duty report to return to work.
- 2.12.b. All documentation related to the employee's or family member's medical condition will be held in strict confidence.
- 2.13 Effect on Benefits: An employee granted leave under this policy will continue to be covered under the school department's group health insurance, life insurance, or long-term disability plan under the same condition as coverage would have been provided if he/she had been continuously employed during the leave period.
- 2.13.a. Employee contributions will be required either through payroll deduction or by direct payment to the Business Manager. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee's contribution amounts are subject to change in rates that occur while the employee is on leave.
- 2.13.b. If an employee's contribution is more than thirty (30) days late, the school department may terminate the employee's insurance coverage.
- 2.13.c. If the school department pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the school department for delinquent payments on a payroll deduction schedule. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
- 2.13.d. If the employee fails to return from unpaid family/medical leave for reasons other than (1) continuation of a serious health condition of the employee or a covered family member or (2) circumstance beyond the employee's control (certification required within thirty (30) days for failure to return for either reason), the school department may seek reimbursement from the employee for the portion of the premiums made by the school department on behalf of that employee during the period of the leave.
- 2.13.e. An employee is not entitled to seniority or benefit accrual during a period of unpaid leave but will not lose accrued benefits or seniority earned prior to the leave.

- 2.14 Job Protection: If the employee returns to work within twelve (12) weeks following a family/medical leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status, and authority.
- 2.14.a. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
- 2.14.b. If the employee fails to return within twelve (12) weeks following a family/medical leave, the employee will be reinstated to his/her same or similar position, only if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be considered to have resigned.
- 2.15 Maine Family Medical Leave: The Maine Family Medical Leave Law will apply when an employee does not qualify for family medical leave under Federal Law.
- 2.15.a. All provisions of the Federal Family and Medical Leave Act, as noted in this policy, will apply except where the Maine Family Medical Leave Law is either silent or different. Employees not eligible for Federal Family and Medical Leave may request such leave under the Maine Family Medical Leave Law.
- 2.16 For the purposes of this policy and this section, the following definitions will apply:
- 2.16.a. Serious Health Condition - A serious health condition means an illness, injury, impairment, or physical or mental condition that involves:
- 2.16.a.1. Inpatient care in a hospital, hospice, or residential medical care facility.
- 2.16.a.2. Continuing treatment by a health care provider.
- 2.16.b. Health Care Provider - A health care provider is a doctor of medicine or osteopathy who is licensed to practice medicine or surgery in Maine or any other person determined by the Secretary of Labor to be capable of providing health care services.
- 2.17 Coverage and Eligibility: The employee has worked for the school department for a total of twelve (12) months irrespective of hours worked.
- 2.17.a. The employee may use up to a total of ten (10) consecutive work weeks of unpaid leave during any twenty-four (24) month period.

2.18 Notice and Certification: The employee must give at least thirty (30) days' notice of the intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving that notice.

2.18.a. The employer may require certification from a physician to verify the amount of leave requested by the employee except that an employee, who in good faith relies on treatment by prayer or spiritual means in accordance with the tenets and practice of a recognized church or religious denomination, may submit certification from an accredited practitioner of those healing methods.

2.19 Effect on Benefits: The employer will make it possible for employees to continue their employer benefits at their own expense.

2.20 Job Protection: Upon expiration of the leave, an employee is entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. This subsection does not apply if the employer proves that the employee was not restored as provided to this subsection because of conditions unrelated to the employee's exercise of rights under this subchapter.

Legal Ref: 26 USC § 2601 et seq.  
29 CFR Part 825  
26 MRSA § 843 et seq.

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