

## **LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT ("FMLA")**

This school abides by the Family Medical Leave Act of 1993 ("FMLA") for the purpose of providing time off to handle serious health conditions of an employee and his or her immediate family, and to care for newborn children as well as children placed through adoption or foster care. The FMLA provides eligible employees with up to 12 workweeks of unpaid leave during a 12-month period. The FMLA also provides for up to 12 weeks for leave during a family member's active military duty and up to 26 weeks for eligible employees to care for an injured servicemember. During FMLA leave, an eligible employee is entitled to continued group health plan coverage as if the employee had continued to work. At the conclusion of the leave, subject to some exceptions, an employee generally has a right to return to the same or to an equivalent position.

### **Employee Eligibility Criteria**

To be eligible for FMLA leave, an employee must have been employed by the school for at least 12 months (which need not be consecutive); and worked at least 1,250 hours during the 12 month period immediately preceding the commencement of the leave.

### **Events which May Entitle An Employee to FMLA Leave**

FMLA leave may be taken for any one, or for a combination of, the following:

- the birth of the employee's child or to care for the newborn child;
- the placement of a child with the employee for adoption or foster care or to care for the newly placed child;
- to care for the employee's spouse, child or parent (but not in-law) with a serious health condition; and/or
- the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job (including temporary disabilities resulting from childbirth or pregnancy).
- qualifying exigency arising out of impending call to active duty status (defined below).
- an employee's spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a "serious injury or illness sustained in the line of duty on active duty."

A "serious health condition" is defined as an injury, illness, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. A "qualifying exigency" is defined as (1) short-notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; and (8) additional activities to address other events which arise out of the covered military member's active duty or call to active duty status, provided the employer and employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave. A "serious injury or illness" for purposes of injured service member leave is defined as (1) an injury or illness; (2) incurred

on active duty in the armed forces; (3) that may render him/her medically unfit to perform the duties of his/her office, grade, rank, or rating. NOTE: More detailed information can be obtained from the HR Department and at the Department of Labor website ([www.dol.gov](http://www.dol.gov)).

### **Maximum Duration of Leave**

An eligible employee may take up to twelve (12) weeks of unpaid leave in a 12-month period for any FMLA qualifying reason. In addition, an eligible employee can take leave up to twenty-six (26) weeks for leave to care for an injured service member in a single 12-month period. Employees may take a combination of both traditional FMLA leave and injured service member leave totaling 26 weeks within a single 12-month period. For example, if an employee takes 10 weeks of leave for his/her own serious health condition and after returning to work is required to provide care to an injured service member, the eligible employee would be entitled to an additional 16 weeks of leave for the 12 month period. Additional leave may be available for specific statutorily authorized reasons; however, any condition which qualifies under more than one statutory leave will be credited concurrently (i.e., workers compensation).

Partial leave, intermittent leave or leave on a reduced-schedule basis is available when medically necessary and may also be available in other particular circumstances, based upon the reason for leave and the amount of leave utilized by the employee. Employees returning to work on light duty assignment or reduced-schedule basis will not be credited with taking FMLA leave during the duration of the light duty assignment or reduced-schedule. However, employees who are on an approved FMLA leave who miss mandatory overtime work will have such time credited against their FMLA allotted leave for the applicable period.

### **Limitations on FMLA Leave**

Leave to care for a newborn or for a newly placed child must conclude within 12 months after the birth or placement of the child.

When both spouses are employed by the school, they are together entitled to a combined total of 12 workweeks of FMLA leave within the designated 12 month period for the birth; adoption or foster care placement of a child with the employees; for aftercare for the newborn or newly placed child; and to care for a parent (but not in-law) with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA qualifying reasons (i.e., the difference between the leave taken individually for any of the above reasons and 12 workweeks, but not more than a total of 12 workweeks per person).

For example, if each spouse took 6 weeks of leave to care for a newborn child, each could later use an additional 6 weeks due to his/her own serious health condition or to care for a child with a serious health condition.

### **Intermittent or Reduced Work Schedule Leave**

Intermittent leave is leave taken in separate blocks of time. A reduced work schedule is a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday.

Leave to care for a newborn or for a newly placed child may not be taken intermittently or on a reduced work schedule unless the school agrees with respect to an individual leave request.

Leave because of an employee's own serious health condition, or to care for an employee's spouse, child or parent with a serious health condition, may be taken all at once or, where medically necessary, intermittently or on a reduced work schedule.

If an employee takes leave intermittently or on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so as not to unduly disrupt the school's operations. When an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment, the school may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates any recurring periods of leave.

### **Requests for FMLA Leave**

An employee should request FMLA leave by completing the Employee Request for Leave form and submitting it to the HR Department. The employee will be provided with documents explaining their eligibility, rights and responsibilities under the school's FMLA policy.

When leave is foreseeable for childbirth, placement of a child or planned medical treatment for the employee's or family member's serious health condition, the employee must provide the school with at least 30 days advance notice, or such shorter notice as is practicable (i.e., within 1 or 2 business days of learning of the need for leave). Leave related to planned medical treatment of the employee or family members of the employee should be scheduled so as not to unduly disrupt school operations. When the timing of the leave is not foreseeable, the employee must provide the Company with notice of the need for leave as soon as practicable (i.e., within 1 or 2 business days of learning of the need for the leave). Such notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do personally.

### **Required Documentation**

When leave is taken to care for a family member, the school may require the employee to provide documentation or statement of family relationship (e.g., birth certificate or court document).

An employee will be required to submit a medical certification from a health care provider to support a request for FMLA leave for the employee's or a family member's serious health condition. Medical certification forms are available from the HR Department.

The employee should respond to such a request within fifteen (15) days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a delay in granting leave and/or denial of continuation of leave.

Certification of the serious health condition shall include: the date when the condition began; its expected duration; treatment regimen prescribed; appropriate medical facts within the healthcare providers knowledge regarding the condition; if applicable, a statement that the employee is needed to provide care for his/her spouse, child or parent and an estimated duration of such need; and if applicable, a statement regarding the medical necessity of intermittent or reduced hours/schedule leave.

In the event deficiencies exist in the certification received from the employee's health care provider, the school will notify the employee, in writing, within seven (7) calendar days requesting the employee to provide any additional information to support the leave. Should the employee fail to submit a complete and sufficient certification despite the opportunity to correct the defect, the school may deny FMLA leave. If the school has reason to doubt the employee's initial certification, the school may: (i) contact the employee's health care provider (via the HR Department) in an effort to clarify or authenticate the initial certification after providing opportunity for the employee to correct any deficiencies; and/or (ii) require the employee to obtain a second opinion by an independent school designated provider at the school's expense. If the initial and second certifications differ, the school may, at its expense, require the employee to obtain a third, final and binding certification from a jointly selected health care provider.

During FMLA leave, the school may request that the employee provide recertification of a serious health condition at intervals in accordance with the FMLA (i.e., every 30 days). If an employee's leave will be less than 30 days, the school may request recertification if the employee requests an extension of the leave; circumstances described in the previous certification have changed significantly; or the school receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification. Employees requested to provide recertification shall do so within 15 calendar days after the request. In addition, during FMLA leave, the employee must provide the school with periodic reports regarding the employee's status and intent to return to work. If the employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the school with reasonable notice (i.e., within 2 business days) of the employee's changed circumstances and new return to work date. If the employee gives the school notice of the employee's intent not to return to work, the employee will be considered to have voluntarily resigned. In the case of an employee leave request due to a qualifying exigency, the school may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military indicating that the covered military member is on active duty or called to active duty status in support of a contingency operation and the dates of the covered military member's active duty service. The school may also require that the qualifying exigency leave be supported by certification. In the case of leave taken to care for an injured service member, the school may also require an employee to obtain a certification completed by an authorized health care provider of the covered service member. Questions concerning qualifying exigency leave and leave to care for an injured service member, as well as specific forms relating to the leave may be directed to and obtained from the HR Department

Before the employee returns to work from FMLA for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the

employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work and perform the essential functions of his/her position. The Company may delay restoration to employment until an employee submits a required fitness-for-duty certification.

### **Use of Paid and Unpaid Leave**

FMLA provides eligible employees with up to 12 workweeks of unpaid leave (26 weeks in the case of injured service member leave). If an employee has accrued paid leave (e.g., vacation, sick leave, personal leave), however, the employee must use any qualifying paid leave first. "Qualifying paid leave" is leave that would otherwise be available to the employee for the purpose for which the FMLA leave is taken. The remainder of the 12 workweeks of leave, if any, will be unpaid FMLA leave. Any paid leave used for an FMLA qualifying reason will be charged against an employee's entitlement to FMLA leave. The substitution of paid leave for unpaid leave does not extend the 12 workweek leave period.

### **Designation of Leave**

The school will notify the employee that leave has been designated as FMLA leave (Designation Notice) within 5 business days after receipt of a satisfactory certification from the employee's treating physician. The school may provisionally designate the employee's leave as FMLA leave if the school has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified the school of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify the HR Department within 2 business days of the employee's return to work that the leave was for an FMLA reason.

### **Maintenance of Health Benefits During Leave**

During FMLA leave an employee is entitled to continued group health plan coverage under the same conditions as if the employee had continued to work. To the extent that an employee's FMLA leave is paid, the employee's portion of health insurance premiums will be deducted from the employee's salary. For the portion of FMLA leave that is unpaid the employee's portion of health insurance premiums may be paid at the same time as if made by a payroll deduction. If an employee's payment of health insurance premiums is more than 30 days late, the school may discontinue health insurance coverage upon notice to the employee. The school is entitled to seek reimbursement of any premium payment missed by the employee and paid for by the school. The school may also seek to recover its share of health care premiums during the period of unpaid FMLA leave if the employee fails to return to work after the conclusion of the employee's FMLA leave.

### **Return from FMLA Leave**

Subject to limited exceptions, upon return from FMLA leave, the school will place the employee in the same position the employee held before the leave or an equivalent position with equivalent



pay, benefits and other employment terms. However, an employee shall have no greater right to reinstatement or to other benefits than had the employee been continuously employed during the FMLA period. Thus, an employee is not entitled to reinstatement if, because of a layoff, reduction in force or other reason, the employee would not be employed at the time job restoration is sought.

The school reserves the right to deny reinstatement to eligible employees who are among the highest 10 percent of the school's employees ("key employees") if such denial is necessary to prevent substantial and grievous economic injury to the school's operations. If an employee requesting FMLA leave is considered to be a "key employee" the employee will be advised of the specific conditions placed on his/her FMLA leave rights.

### **Additional Information**

For further information or clarification about the school's FMLA leave policy, please contact the HR Department.

### **Non-Discrimination and Non-Retaliation Policy**

The school will not: 1) interfere with, restrain, or deny the exercise of any right provided under the FMLA; 2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA; or 3) discharge or discriminate against any person for his or her involvement in any proceeding under or relating to FMLA.