

SHALER AREA SCHOOL DISTRICT

No: 435

SECTION: PROFESSIONAL EMPLOYEES

TITLE: FAMILY AND MEDICAL LEAVES

ADOPTED: MARCH 18, 1998

REVISED: JULY 16, 2008; MAY 13, 2009; MAY 12, 2010

	<p style="text-align: center;">435. FAMILY AND MEDICAL LEAVES</p> <p>The purpose of this policy is to address certain leave of absence issues and to ensure the School District's compliance with the Family Medical Leave Act.</p> <p>Employee requests for FMLA leave shall be processed in accordance with law, Board policy and administrative regulations.</p> <p>The Superintendent shall develop administrative guidelines regulating leaves and ensuring the District's compliance with the Family and Medical Leave Act (hereinafter referred to as "FMLA"). Although the details of the guidelines are to be left to the discretion of the Superintendent, the guidelines must adhere to the following basic principles:</p> <ol style="list-style-type: none">1. Required notices shall be posted.2. Guides advising employees of their rights and responsibilities shall be developed and posted. The guides shall be given to employees upon request; whenever an employee requests an FMLA leave; and whenever the District designates a leave as an FMLA leave.3. All requests for leave (both FMLA leave and non-FMLA leave) shall be made in writing on forms developed by the Superintendent or designee. The forms shall request sufficient information from which it may be determined whether the leave qualifies as an FMLA leave.4. If the employee requesting an FMLA leave qualifies for and is entitled to any paid leave under a collective bargaining agreement, District policy or statutory mandate, the employee must utilize said leave during the FMLA leave.5. Medical certification forms as allowed by the FMLA shall be required whenever authorized by the FMLA.
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29 U.S.C.
Sec. 2612

- 6. Employees shall be required to provide a fitness-for-duty certificate upon returning from an FMLA leave when the leave was taken because of the employee’s own serious health condition, except where such a requirement would be in violation of a collective bargaining agreement or where the employee has taken a paid leave concurrent with the FMLA leave and the School District policy and practice heretofore has not required a fitness-for-duty certificate to be provided.
- 7. Seniority shall accrue during FMLA leaves for all purposes.
- 8. For purposes of determining whether an eligible employee under the FMLA has exhausted the twelve (12) weeks of leave “in any twelve-month period,” the District shall utilize a rolling twelve-month period measured backwards from the date leave is used so as to avoid “stacking” of back-to-back leave entitlements.

Eligible employees shall be provided up to twelve (12) workweeks of unpaid leave in a twelve-month period for the employee’s own serious health condition; for the birth, adoption, foster placement or first-year care of a child; to care for a seriously ill spouse, child or parent; or to address specific qualifying exigencies pertaining to a member of the Armed Forces alerted for foreign deployment or during foreign deployment.

Eligible employees shall be provided up to twenty-six (26) workweeks of unpaid leave in a single twelve-month period to care for an ill or injured covered service member.
- 9. An employee will be denied intermittent leave or leave on a reduced leave schedule to care for an immediate family member (spouse, child, parent) with a serious health condition or if the employee has a serious health condition if:
 - a. the employee establishes, through medical certification, that there is a medical need for such a leave (as distinguished from voluntary treatments and procedures); or
 - b. the employee establishes, through medical certification, that it is medically necessary for the leave to be taken intermittently on a reduced leave schedule.
- 10. Eligibility for an FMLA leave shall be based entirely on the eligibility criteria established by the Family and Medical Leave Act. This policy shall not be construed to expand eligibility for an FMLA leave beyond what is required by the Act.

11. This policy was adopted, in part, because of the enactment of the Family and Medical Leave Act. Should that Act be repealed or declared invalid, in whole or in part, this policy shall become wholly void and a new policy will be adopted if and as necessary to comply with law.

ADMINISTRATIVE GUIDELINES

1. The FMLA Posting, the FMLA Fact Sheet, and the District's Notice of Expectations and Obligations shall be posted and remain posted at all District facilities.
2. A copy of the FMLA United States Department of Labor Fact Sheet No. ESA 95-24 shall be given to all employees.
 - a. whenever other written guidance is given by the District to employees concerning employee benefits or leave rights;
 - b. whenever an employee requests leave under the FMLA (regardless of the employee's entitlement to such leave); and
 - c. whenever the District designates a leave as an FMLA leave.
3. An employee may be denied an FMLA leave under the following circumstances:
 - a. the employee does not meet the eligibility standards of having actually worked for the District at least twelve (12) months prior to the start of the leave and having worked 1,250 hours during the year prior to the start of the leave;
 - b. if the employee fails to give timely advance notice when the need for FMLA leave is foreseeable; but such leave will be granted if desired by the employee (if the employee is otherwise entitled to the leave) thirty (30) days after the date the employee gives notice;
 - c. if the employee fails to provide timely medical certification where required, FMLA leave may be denied until the certification is provided;
 - d. if the employee has exhausted twelve (12) weeks of FMLA leave during the twelve-month period preceding the start of the leave;

- e. in any case in which the necessity for the leave is in order to care for the spouse, child, or parent of the employee, or because of the employee's own serious health condition where the employee fails to make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the District, subject to the approval of the health care provider;
 - f. if both a husband/wife work for the District, and one or the other seeks a leave so that the aggregate number of work weeks taken by both would exceed twelve (12) and the leaves were taken because of the birth or placement of a son or daughter or in order to care for the spouse, child, parent of the employee; and
 - g. if the employee is not qualified for such leave for any reason.
4. The attendance records of each employee shall indicate whether any leaves are designated as FMLA leave and whether FMLA notice was given to the employee in accordance with paragraph 3 hereof.
5. Calculation of the amount of FMLA leave utilized by the employee is to be as follows:
- a. only the amount of leave actually taken and designated as FMLA leave may be counted.
 - b. for regularly scheduled employees, time taken in less than full-week increments shall be proportionately calculated based upon the amount of time taken off as compared to the employee's normal work week. For example, where an employee who normally works five (5) days a week takes one (1) day off, the employee would use one-fifth of a week of FMLA leave. If a full-time employee who normally works eight-hour days works four-hour days under a reduced leave schedule, the employee would exhaust one-half week of FMLA leave each week.
 - c. for employee whose work week is varied, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave period will be used for calculating the employee's normal work week. If an employee who works thirty (30) hours per week under this calculation works only twenty (20) hours a week as a result of taking FMLA leave, the employee's ten (10) hours of leave would constitute one-third of a week of FMLA leave.

<p>29 U.S.C. Sec. 2619</p>	<p>6. All employees requesting a leave of absence, whether for FMLA leave purposes or not, shall complete and submit a written request on the attached form. No employee shall be entitled to a leave of absence unless the form is submitted and completed.</p> <p>7. FMLA leave cannot be taken intermittently or on a reduced leave schedule for the birth or placement of a child for adoption or foster care.</p> <p>8. An employee will be denied intermittent leave or leave on a reduced schedule to care for an immediate family member (spouse, child, parent) with a serious health condition or if the employee has a serious health condition if:</p> <ul style="list-style-type: none">a. the employee fails to establish, through medical certification, that there is a medical need for such leave (as distinguished from voluntary treatments and procedures) orb. the employee has failed to establish, through medical certification, that it is medically necessary for the leave to be taken intermittently or on a reduced leave schedule. <p>9. The District shall post, in conspicuous places in the District customarily used for notices to employees and applicants, a notice regarding the provisions of the FMLA and the procedures for filing a complaint.</p> <p>References:</p> <p>Family and Medical Leave Act – 29 U.S.C. Sec. 2601 et seq.</p> <p style="text-align: right;">cag</p>
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