

## **FAMILY AND MEDICAL LEAVE**

The Muhlenberg School Board of Directors recognizes its obligation to establish procedures based on the recent federal legislation entitled as the "Family and Medical Leave Act" (FMLA). The purpose of this policy is intended to comply with the requirements of the FMLA.

To the extent that it fails to do so, the provisions of the FMLA shall prevail.

Reference: Federal Register, Vol. 58, No. 106, June 4, 1993 (Family and Medical Leave Act of 1993)

Policy: 4.29

Board approved: 2/16/94

## **FAMILY AND MEDICAL LEAVE**

In accordance with the Family and Medical Leave Act of 1993 (the "FMLA"), the Muhlenberg School District (the "District") affords its eligible employees leave ("FMLA leave") as set forth in this Policy.

- I. **ELIGIBLE EMPLOYEES.** Only eligible employees are entitled to FMLA leave. An eligible employee is an employee who has satisfied each of the following conditions:
  - A. He or she has been employed by the District for at least twelve months, which need not have been consecutive, prior to the commencement of the leave.
  - B. He or she has worked for the District for at least 1,250 hours over the twelve (12) month period immediately prior to the commencement of the leave.
- II. **REASONS FOR LEAVE.** The District will grant FMLA leave for one or more of the following reasons:
  - A. Birth of a child or placement of a child with the employee for adoption or foster care. Eligibility for leave for this purpose must end within one year after the birth or placement.
  - B. A serious health condition of the employee's spouse, child, parent (not parent-in-law), or legal dependent in household (court documentation beyond power of attorney required).
  - C. A serious health condition that makes the employee unable to perform the employee's job.
- III. **LENGTH OF LEAVE.**
  - A. Eligible employees are entitled to up to twelve (12) weeks of FMLA leave in each twelve (12) month period beginning on September 1 of each year.
  - B. Spouses employed by the District are limited to a combined total of twelve (12) weeks of leave for the birth of a child or for placement with them of a child for adoption or for foster care.
- IV. **BENEFITS DURING LEAVE.** FMLA leave is unpaid leave. However, whenever group health insurance (Blue Cross/Blue Shield and Dental) is provided to an employee before the employee takes FMLA leave, the District will maintain the employee's group health coverage under the District's group health plan during the leave on the same terms as if the employee continued to work. During this time the employee will not be entitled to any other economic benefits or payments by the District as per the contract.

- A. If an employee fails to return to work at the conclusion of his or her FMLA leave, the District will recover from the employee amounts it paid for group health insurance for the employee during the leave. However, the District will not recover amounts paid for group health insurance for an employee during FMLA leave if the employee fails to return to work because of a serious health condition of the employee. If an employee fails to return to work because of a serious health condition, the District will require the employee to provide medical certification of the condition within 30 days of the District's request for such certification.
  - B. Where FMLA leave includes paid leave under Section VIII, all benefits continue in force as usual.
  - C. Where FMLA leave is unpaid, the employee may choose to continue life insurance at personal expense. The premiums will be paid by the employee to the District. Employee payments must be made on a monthly basis by the 20th day of the month preceding the month of coverage for which the payment is made. In the event that an employee's payment is not made within 30 days of the date on which it is due, the District's obligation to maintain coverage will cease.
- V. REINSTATEMENT AFTER LEAVE. At the conclusion of FMLA leave, employees will be restored to their original position with equivalent pay, benefits and other employment terms as if they had not taken such leave. However, the employee has no greater right to reinstatement or other benefits or conditions of employment than if the employee had been continuously employed during the leave period.
- VI. LIMITATIONS ON FMLA LEAVE.
- A. Intermittent Leave or Reduced Leave Schedule.
    - 1. Intermittent leave or a reduced leave schedule may be taken for a serious health condition where this is medically necessary.
    - 2. Intermittent leave or a reduced leave schedule may not be taken for the birth of a child or for placement of a child for adoption or foster care.
    - 3. When intermittent leave or leave on a reduced leave schedule is requested based on planned medical treatment, the District may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position. Alternatively, the District may alter an existing job to better accommodate the employee's need for intermittent or reduced leave. The alternative or altered position must have equivalent pay and benefits, but not equivalent duties.
  - B. When FMLA leave is needed to care for a family member or for the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to disrupt the employer's operation unduly.

C. Special Limitations on FMLA leave for Instructional Employees.

1. Leave Taken Near the End of an Academic Term (or Half-Year).

The District may require the instructional employee to continue his or her FMLA leave to the end of the term if:

- a. The leave begins more than five weeks before the term's end, will last at least three weeks, and the employee would return to work within three weeks of the end of the term;
- b. The leave is for a purpose other than the employee's serious health condition, begins during the five-week period before semester's end, will last more than two weeks, and the employee would return during the two-week period before the end of the term; or
- c. The leave is for a purpose other than the employee's own serious health condition, begins during the three-week period before the end of a term, and will last more than five days.

The entire period of leave taken counts as FMLA leave. However, if an annual FMLA leave entitlement of an employee who is required to take leave until the end of an academic term ends before the leave is completed, the District will still maintain health benefits, reinstate the employee and provide all other FMLA entitlements when the leave ends.

2. Use of Intermittent Leave or Reduced Leave Schedule.

- a. If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule based on foreseeable planned medical treatment, and if the employee would be on leave for more than 20 percent of the total number of working days over the period of the leave, then the employer may require the employee to choose either (a) to take leave for a period or periods not greater than the duration of the planned treatment; or (b) to transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.
- b. If the employee requests to take an intermittent or reduced leave which would not exceed a two-week period at any one time, then the benefits exclusion does not apply. All benefits would remain intact during the leave period.

VII. APPLICATION FOR FMLA LEAVE.

- A. Employees must give 30 days notice of their need for FMLA leave where the need for the leave is foreseeable, or such notice as is practicable under the circumstance.
- B. If notice is not given as required in paragraph VII A above, the District will delay the leave until at least 30 days after the employee gives notice of the need for FMLA leave.
- C. Employees must provide periodic reports as requested during FMLA leave regarding the employee's status and intent to return to work.
- D. All official requests for FMLA leave must include certification of the specific reason(s) for leave on the District's approved form.

VIII. SUBSTITUTION OF PAID LEAVE FOR FMLA LEAVE.

- A. Employees must first include accrued paid vacation, personal, or emergency leave as part of the FMLA leave.
- B. Such paid leave taken by an employee will be designated FMLA leave by the District if it is taken for an FMLA-qualifying purpose.
- C. The District will designate an employee's use of paid leave as FMLA leave based on information from the employee. In no event will the District designate paid leave as FMLA leave after the leave has ended.

IX. CERTIFICATION OF SERIOUS HEALTH CONDITIONS AND CERTIFICATION OF FITNESS FOR WORK.

- A. Employees must provide medical certification supporting the need for leave due to a serious health condition of the employee or a covered family member on a form to be provided by the District.
- B. At the request of the District, employees must provide second and, where the first and second opinions differ, third medical opinions regarding the need for leave due to a serious health condition. Second and third opinions will be at the expense of the District. The District will deny leave until the required certification is supplied.
- C. Employees must provide recertification of medical conditions before the first thirty working days of leave, or more frequently at the discretion of the District, as allowed by the FMLA.
- D. An employee who takes FMLA leave because of the employee's own serious health condition must provide certification that he or she is able to resume work at least two weeks prior to the planned return.

- E. All certifications and re-certifications should be submitted on the District approved form.
- F. The District will deny reinstatement until the requested certification is provided.

X. CHILDBEARING/REARING LEAVE.

- A. A letter from the attending physician verifying the pregnancy, estimated delivery date, and physical condition is required to authorize sick leave in this situation. Any sick leave that exceeds four weeks prior to birth and/or six weeks following birth will require detailed certification of the employee's condition by the doctor. Childbearing/rearing leave will begin at the conclusion of the sick days. If the employee chooses to take a limited number of sick days, the childbearing/rearing leave will commence at the conclusion of those sick days.
- B. At the conclusion of sick leave, the employee may also request a leave under the Family Medical Leave Act by submitting a request on the District approved form at least thirty (30) days in advance of the FMLA leave. If all vacation, personal, or emergency days have not been taken by the date the FMLA leave begins, the employee must first take that paid leave. These days will be included as part of the FMLA leave. The FMLA leave will also be considered part of the unpaid childbearing/rearing leave. Both leaves together will not exceed 12 consecutive calendar months as outlined in the contract.
- C. The FMLA leave provides up to a 12-week period of time with Blue Cross/Blue Shield and Dental coverage in effect. During this time the employee will not be entitled to any other economic benefits or payments by the District as per the contract. The employee will continue to accrue seniority and may continue life insurance coverage at personal expense.

XI. NOTICE TO EMPLOYEES OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA.

- A. The District will post a notice, as required by the FMLA, explaining the provisions of the FMLA.
- B. The District will maintain this policy which is intended to comply with the FMLA.
- C. When an employee gives notice of his or her need for FMLA leave, the District will inform the employee (a) of his or her rights and obligations under the FMLA, including any obligation the employee may have to make contributions toward benefits, and (b) consequences of what may happen if the employee fails to meet those obligations.

- XII. MAINTENANCE OF RECORDS. The District will comply with the record-keeping requirements of the FMLA.
- XIII. DISTRICT DISCRETION. Except as set forth in this Policy, the District reserves the right to exercise all discretion afforded it pursuant to the FMLA.
- XIV. DEFINITIONS. To the extent that this Policy employs terms which are defined in the FMLA or in the regulations interpreting it, those definitions are incorporated into this Policy.
- XV. COMPLIANCE WITH THE FMLA. This Policy is intended to comply with the requirements of the FMLA. To the extent that it fails to do so, the provisions of the FMLA shall prevail.

Administrative Procedures: 4.29

Board approved: 2/16/94