

BOARD AGENDA ITEM

May 24, 2022

SUBJECT:

Changes to Administrative Rule GCC-R Professional Staff Leaves and Absences and
Administrative Rule GDC-R Support Staff Leaves and Absences

BACKGROUND INFORMATION:

Administrative Rules GCC-R and GDC-R establish the basic structure for all types of
professional and support staff leaves and absences.

ADMINISTRATIVE CONSIDERATION:

The proposed changes update language consistent with the Family Medical Leave Act
(FMLA), clarify and define categories of leave, and define serious health condition.

RECOMMENDATION:

Approve changes to Administrative Rule GCC-R Professional Staff Leaves and
Absences and Administrative Rule GDC-R Support Staff Leaves and Absences.

ATTACHMENTS:

Administrative Rule GCC-R Professional Staff Leaves and Absences
Administrative Rule GDC-R Support Staff Leaves and Absences

PREPARED BY:

Jennifer Hart

PROFESSIONAL STAFF LEAVES AND ABSENCES

Code **GCC-R** Issued **11/01/06/22**

Procedures regarding absences

An absent employee must furnish a signed statement setting forth the specific reason(s) for his/her absence. The statement must be turned in to the employee's supervisor within two days after the employee returns to work.

An employee will notify his/her immediate supervisor as early as practicable when it is necessary for him/her to be absent. When an employee knows that he/she will be absent for a period longer than five days, he/she should complete and file a request for leave of absence.

An employee who anticipates taking an extended leave of absence should submit the request for leave to his/her supervisor at least 30 calendar days prior to the effective date of the leave. The leave request must include a statement from a licensed medical doctor stating the anticipated length of convalescence or, in the case of maternity leave, giving the expected delivery date.

Any employee returning from an extended leave of absence must present a statement from the attending physician certifying the employee's ability to return to a normal work schedule.

When the employee makes a request in writing, the superintendent may grant an employee leave without pay for personal illness following the exhaustion of all accrued sick leave and any additional leave granted from the sick leave bank. Leave with and without pay will not exceed 91 workdays in any school year and is not to extend beyond the immediate school year.

Verification and use of sick leave

The use of sick leave may be subject to verification. Specifically, the district reserves the right to require that an employee submit a doctor's statement verifying an illness along with an absence report form when the employee has been on sick leave for more than three consecutive working days, or in accordance with FMLA. The building principal or employee's immediate supervisor has the discretion to request such a statement.

If an employee's use of sick leave forms a pattern and abuse is reasonably suspected, the principal/ supervisor may also require a doctor's statement.

In order for the district to provide for the continuity of the educational programs and plan for adequate substitutes, an employee who is absent for more than 10-5 continuous work days must provide a physician's statement of diagnosis and prognosis medical work restrictions so that the district may determine the earliest possible date of return. Human Resources The employee's immediate supervisor will notify him/her in writing that he/she must provide the physician's statement.

If the employee does not provide the physician's statement within five workdays following the written notification, the district may terminate his/her employment.

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Family and Medical Leave Act (FMLA)

The following administrative rules apply only to the Family and Medical Leave Act.

- Eligibility

An employee is eligible for FMLA leave if he or she (a) has been employed by the school district for at least 12 months (52 weeks); (b) has at least 1,250 actual hours of service (i.e., actual work hours) during the 12-month period immediately preceding the start of leave; and (c) works at a site where a minimum of 50 employees are employed by the school district within a 75-mile radius of that worksite as of the date leave is requested.

The 12 months of employment need not be consecutive. The school district will not count any period of previous employment that occurred more than seven years before the date of an employee's most recent hire date unless (a) the break in service is occasioned by the fulfillment of the employee's Uniformed Services Employment and Reemployment Rights Act (USERRA) service obligations, or (b) a written agreement (including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service (e.g., for purposes of the employee furthering his or her education or for childrearing purposes).

Full-time Instructional Employees (i.e., classroom teachers) meet the 1,250 hours of service requirement unless the school district can demonstrate that the teacher did not meet the 1,250 hours of service requirement in the 12-month period prior to the start of leave.

An employee who has worked for the district for at least 12 months is eligible for 12 work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave.

For purposes of FMLA leave, a 12-month period is the district's fiscal year, July 1 through June 30.

The 12 months of employment need not be consecutive months.

- Employees who do not meet eligibility requirements for FMLA may be eligible for District Leave up to 91 days, subject to the same provisions of FMLA.

- Types of leave

An eligible employee may take FMLA leave for the following.

- birth and care of a child after birth
- adoption or foster placement of a child
- to care for serious illness of an employee's spouse, parent, or child with a serious illness
- employee's own serious health condition that keeps the employee from performing the essential functions of his/her job
- military family leave for qualifying exigency leaves or military caregiver leave

A serious health condition is one involving continuous treatment by a health care provider that results in a period of incapacity of more than three consecutive calendar days and involves extensive treatment. Such conditions as asthma and diabetes are included in this definition.

A “serious health condition” means an illness, injury impairment, or physical or mental condition that involves one or more of the following:

1. Inpatient Care. An overnight stay in a hospital, hospice, or residential medical care facility including any period of incapacity or subsequent treatment in connection with such inpatient care.

2. Incapacity Plus Treatment. A period of incapacity of more than three consecutive, full calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(a) Treatment two or more times within 30 days of the first day of incapacity (unless extenuating circumstance exist), by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by a health care provider; or

(b) Treatment by a health care provider on at least one occasion within seven days of the condition, which results in a regimen of continuing treatment under the supervision of the health care provider.

Incapacity means inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

Treatment means an in-person visit to a health care provider. Treatment includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic), or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

3. Pregnancy

(a) Any period of incapacity due to pregnancy; and

(b) Prenatal care.

4. Chronic Conditions

A chronic condition:

(a) Requires periodic visits for treatment by a health care provider (at least two per year), or by a nurse or physician’s assistant under direct supervision of a health care provider.

(b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(c) May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy)

5. Permanent or Long-term Conditions

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not to be receiving active treatment by, a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.

6. Conditions Requiring Multiple Treatments

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under the orders of, or on referral, by a health care provider, for:

(a) restorative surgery after an accident or other injury; or (b) a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical

intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

~~An employee may elect, or the district may require,~~The district requires an employee to use accrued paid vacation, personal, or family leave for purposes of a family leave. ~~An employee may elect or the district may require~~The district requires an employee to use accrued vacation, personal or medical/sick leave for purposes of a medical leave. An employee cannot compel the district to permit the employee to use accrued medical/sick leave in any situation under which the leave could not normally be used.

- Spouses employed by the school district

If both spouses are eligible employees of the school district and request FMLA leave for (1) the birth of a child (and to bond with the newborn child), (2) the placement of a healthy child by adoption or for foster care, or (3) to care for a parent with a serious health condition, they are entitled to a maximum combined total leave equal to twelve (12) weeks in any 12-month entitlement period. If either spouse uses a portion of the total 12-week entitlement for one of those reasons, the other spouse is still entitled to the difference between the amount his or her spouse has taken and the 12-week entitlement for FMLA leave for one or more of the FMLA purposes listed above during any 12-month entitlement period. However, each spouse may each take up to twelve (12) weeks of FMLA leave for other FMLA-qualifying reasons, such as for their own serious health condition, or to care for a child with a serious health condition. If the spouses have exhausted their combined 12-week entitlement and one or both employees need FMLA leave for a reason that is not subject to the combined limit, then the spouse is entitled to additional FMLA leave up to the individual 12-week entitlement.

Both spouses who are eligible for FMLA leave are limited to a combined total of 26 workweeks of leave during the single 12-month period if one of the reasons is to care for military caregiver leave, or if military caregiver leave is one of the reasons for leave and leave is also for the birth of a child, the placement of a healthy child by adoption or for foster care, or to care for a parent with a serious health condition. The spouses remain limited to a combined maximum of 12 weeks of FMLA leave for reasons other than military caregiver leave as specified above.

~~If a husband and wife eligible for leave are employed by this school district, their combined amount of leave for birth, adoption, foster care placement and parental illness may be limited to 12 weeks. An employee may not take FMLA leave to care for a parent-in-law.~~

- Block of Time, Intermittent, and Reduced Schedule Leave

An employee may take FMLA leave in a block of time, on an intermittent basis, or on a reduced schedule basis, as explained below.

1. "Block" FMLA leave is leave for a continuous period of time. Such leave may be taken for any of the reasons permitted by the FMLA.
2. "Intermittent" leave means leave taken in separate periods of time for a single qualifying FMLA reason and may include periods of leave ranging from an hour or more to several weeks. For example, intermittent leave may include (a) leave taken for a partial or full workday for scheduled medical appointments, or (b) leave taken on an occasional or "as needed" basis due to episodic flare-ups of a chronic condition.

3. “Reduced Schedule” leave is leave that reduces the employee's usual number of scheduled work hours per workday or per workweek for some period of time. For example, an employee may need to work a reduced schedule for a set number of weeks while recovering from a surgical procedure.

Intermittent or reduced schedule leave may be taken (a) when medically necessary for an employee's or covered family member's serious health condition, or for a covered servicemember's serious illness or injury, and (b) the need for leave can best be accommodated through an intermittent or reduced schedule leave. More specifically, FMLA leave may be taken intermittently or on a reduced schedule basis:

1. When medically necessary for planned or unanticipated medical treatment, or for treatment that is required by a health care provider periodically (e.g., leave taken for chemotherapy or for prenatal examinations);
2. For recovery from a serious health condition or a covered servicemember's serious injury or illness;
3. To provide care or psychological comfort to a covered family member with a serious health condition or a covered servicemember with a serious injury or illness;
4. Where the employee or covered family member is incapacitated because of a chronic serious health condition;
5. Due to a qualifying exigency; or
6. To effectuate the placement of a child for adoption or foster care before the placement of the child.

Intermittent or reduced schedule leave may be taken following the birth or placement of a child only with the school district's permission.

~~Intermittent leave is leave taken in separate blocks of time due to a single illness or injury. Reduced leave is a leave schedule that reduces an employee's usual number of hours per work week or hours per workday.~~

~~Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent. Such leave may not be used for the birth or adoption/placement of a child.~~

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~~The employee who wishes to use intermittent or reduced leave must have the prior approval of the district. Although the district and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave, but the district may transfer the employee to a position that is equivalent, but more suitable for intermittent periods of leave. The employee must furnish the district with the expected dates of the planned medical treatment and the duration of the treatment. The superintendent must authorize such leave in writing.~~

- Benefits

The district will maintain the employee's health coverage under the district's group health insurance plan during the period of FMLA leave. The employee should make arrangements with the district to pay the employee's share of health insurance (e.g. family coverage) prior to the beginning of the FMLA leave.

Increases in premiums or deductibles that apply to active employees also apply to employees on FMLA leave. An employer may drop coverage for an employee whose premium payment is late only after providing written notice to the employee that the payment has not been received. This notice must be mailed to the employee at least 15 days before coverage is to end and will advise that coverage will be dropped 15 days after the date of the letter unless payment has been received.

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

- Notice

When the FMLA leave is foreseeable, the employee must notify the district of his/her request for leave at least 30 days prior to the date when the leave is to begin. If the leave is not foreseeable, the employee must give notice as early as is practical, ordinarily ~~within one or two business days~~ the same or the next business day. When the employee requests medical leave for planned medical treatments, the employee must make reasonable attempts to schedule treatment so as not to unduly disrupt the district's operations.

The district may deny the leave if the employee does not meet the notice requirements.

- Designation of leave as FMLA leave

The district must designate the leave as paid or unpaid FMLA. The district must also provide other written information concerning the employee's rights and obligations under FMLA.

- Certification

An employee may be required to submit a completed certification form supporting the need for FMLA leave. The appropriate form will be provided to the employee. The employee must submit a complete and sufficient certification form as required within fifteen (15) calendar days of receiving the request for the completed certification. If it is not practicable for the employee to provide the completed form by the due date despite the employee's diligent, good faith efforts, the employee must inform Human

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Resources/the FMLA Administrator of the reason(s) for delay and what efforts the employee undertook to obtain the required certification. FMLA-protected leave may be delayed or denied if the employee does not provide a complete and sufficient certification as required in a timely manner, and other adverse employment consequences may be imposed. An employee may be required to submit documentation in addition to a completed certification form or in lieu of a certification form. (e.g., to establish a family relationship, or military active duty orders).

The district may require the employee to provide certification from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification, a second and if necessary, a third opinion can be required, both at the expense of the district. The school district may select the medical professional to furnish the second opinion. In the event that the second opinion differs from the initial opinion regarding FMLA leave entitlement, then a third medical opinion will be obtained at the school district's expense through a mutually agreed upon health care provider. The third health care provider's opinion will be binding.

Upon the employee's return to work, the district will require that the employee present a fitness statement from the employee's health care provider certifying that the employee is able to return to work.

- Recertification

Recertifications may be required under the following circumstances:

1. Every six months or annually in connection with an FMLA-related absence by the employee if the previous certification indicates that the employee will need intermittent or reduced schedule leave for a period in excess of six or 12 months;
2. The circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications); or
3. Whenever the school district receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

- Restoration

When the employee returns from leave, the district will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment in accordance with board policy. The employee's right to return to the same or an equivalent position is contingent upon the employee's continued ability to perform all the essential functions of the job within the confines of any medical work restrictions. An equivalent position is one that is the same or substantially similar in duties, responsibilities, conditions, privileges and status as the original position.

Under certain circumstances, the district may deny restoration to a key employee. The district will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the district to experience a substantial and grievous economic injury.

- Instructional employees

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Special leave rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a small group or an individual setting. This term includes teachers, athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is to care for a family member or for the employee's own serious health condition and the leave is foreseeable based on planned medical treatment and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, then the district may require the employee to choose one of the following.

- take the leave for a period or periods of a particular duration, not greater than the duration of the planned treatment
- 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

Employees taking leave which constitutes 20% or less of the working days during the leave period would not be subject to transfer to an alternative position.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five weeks before the end of a semester, the district may require the employee to continue taking leave until the end of the semester under these conditions.

- the leave will last at least three weeks
- the employee would return to work during the three-week period before the end of the semester

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When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the district may require the employee to continue taking leave until the end of the semester under these conditions.

- the leave will last more than two weeks
- the employee would return to work during the two-week period before the end of the semester

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively, rather than intermittently. Summer and other vacations may not be counted against an employee's FMLA leave entitlement. An instructional employee on FMLA leave at the end of the school year must receive normal benefits over the summer vacation.

- Failure to return

The district is entitled to recover health care premiums paid during the leave if the employee fails to return from leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence or onset of a serious health condition or due to circumstances beyond the control of the employee.

Outside Employment and Vacation During FMLA Leave

An employee who is on FMLA leave may not engage in employment for any other employer or engage in self-employment while on leave. In addition, an employee on FMLA leave for his or her own serious health condition may not engage in leisure activities or personal travel (e.g., vacation) that is inconsistent with the medical condition that incapacitates the employee from working his or her job. If the employee is using available paid leave that is running concurrently with FMLA leave for the employee's own serious health condition, the employee must remain in the general vicinity of his or her place of residence during the period of such leave. Dishonesty related to such activities (i.e., work or personal travel) are violations of this policy.

Issued 9/26/95; Revised ~~11/27/01~~, 6/14/2022

SUPPORT STAFF LEAVES AND ABSENCES

Code **GDC-R** Issued **01/21/06/22**

Procedures regarding absences

An absent employee must furnish a signed statement setting forth the specific reason(s) for his/her absence. The statement must be turned in to the employee's supervisor within two days after the employee returns to work.

An employee will notify his/her immediate supervisor as early as practicable when it is necessary for him/her to be absent. When an employee knows that he/she will be absent for a period longer than five days, he/she should complete and submit a Family and Medical Leave Request Form for leave of absence.

An employee who anticipates taking an extended leave of absence should submit the request for leave to his/her supervisor at least 30 calendar days prior to the effective date of the leave. The supervisor will submit the leave request to Human Resources. Additional documentation verifying eligibility and certifying the reason for leave will be requested by and submitted to Human Resources.

Any employee returning from an extended leave of absence must present a statement from the attending physician certifying the employee's ability to return to a normal work schedule to Human Resources at least one workday prior to the return.

When the employee makes a request in writing, the superintendent or designee may grant an employee leave without pay for personal illness following the exhaustion of all accrued sick leave and any additional leave granted from the sick leave bank or shared leave in accordance with policies GCAAA and GCCAAB. Leave with and without pay will not exceed 91 workdays in any school year and is not to extend beyond the immediate school year.

Verification and use of sick leave

The use of sick leave may be subject to verification. Specifically, the district reserves the right to require that an employee submit a doctor's statement verifying an illness along with an absence report form when the employee has been on sick leave for more than three consecutive working days, or in accordance with FMLA. The building principal or employee's immediate supervisor has the discretion to request such a statement.

If an employee's use of sick leave forms a pattern and abuse is reasonably suspected, the principal/ supervisor may also require a doctor's statement.

In order for the district to provide for the continuity of the educational programs and plan for adequate substitutes, an employee who is absent for more than five continuous work days must provide a physician's statement of diagnosis and prognosis medical work restrictions to Human Resources so that the district may determine the earliest possible date of return.

If the employee does not provide the physician's statement to Human Resources within five work days following the written notification, the district may terminate his/her employment.

Family and Medical Leave Act (FMLA)

- The following administrative rules apply only to the Family and Medical Leave Act. Eligibility

An employee is eligible for FMLA leave if he or she (a) has been employed by the school district for at least 12 months (52 weeks); (b) has at least 1,250 actual hours of service (i.e., actual work

hours) during the 12-month period immediately preceding the start of leave; and (c) works at a site where a minimum of 50 employees are employed by the school district within a 75-mile radius of that worksite as of the date leave is requested.

The 12 months of employment need not be consecutive. The school district will not count any period of previous employment that occurred more than seven years before the date of an employee's most recent hire date unless (a) the break in service is occasioned by the fulfillment of the employee's Uniformed Services Employment and Reemployment Rights Act (USERRA) service obligations, or (b) a written agreement (including a collective bargaining agreement) exists concerning the employer's intention to rehire the employee after the break in service (e.g., for purposes of the employee furthering his or her education or for childrearing purposes).

Full-time Instructional Employees (i.e., classroom teachers) meet the 1,250 hours of service requirement unless the school district can demonstrate that the teacher did not meet the 1,250 hours of service requirement in the 12-month period prior to the start of leave.

An employee who has worked for the district for at least 12 months is eligible for 12 work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave.

For purposes of FMLA leave, a 12-month period is the district's fiscal year, July 1 through June 30.

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- **Types of leave**

An eligible employee may take FMLA leave for the following.

- birth and care of a child after birth
- adoption or foster placement of a child
- to care for serious illness of an employee's spouse, parent, or child with a serious illness
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2. Incapacity Plus Treatment. A period of incapacity of more than three consecutive, full calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(a) Treatment two or more times within 30 days of the first day of incapacity (unless extenuating circumstance exist), by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by a health care provider; or

(b) Treatment by a health care provider on at least one occasion within seven days of the condition, which results in a regimen of continuing treatment under the supervision of the health care provider.

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3. Pregnancy

(a) Any period of incapacity due to pregnancy; and

(b) Prenatal care.

4. Chronic Conditions

A chronic condition:

(a) Requires periodic visits for treatment by a health care provider (at least two per year), or by a nurse or physician's assistant under direct supervision of a health care provider.

(b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

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(a) restorative surgery after an accident or other injury; or (b) a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

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- Spouses employed by the school district

If both spouses are eligible employees of the school district and request FMLA leave for (1) the birth of a child (and to bond with the newborn child), (2) the placement of a healthy child by adoption or for foster care, or (3) to care for a parent with a serious health condition, they are entitled to a maximum combined total leave equal to twelve (12) weeks in any 12-month entitlement period. If either spouse uses a portion of the total 12-week entitlement for one of those reasons, the other spouse is still entitled to the difference between the amount his or her spouse has taken and the 12-week entitlement for FMLA leave for one or more of the FMLA purposes listed above during any 12-month entitlement period. However, each spouse may each take up to twelve (12) weeks of FMLA leave for other FMLA-qualifying reasons, such as for their own serious health condition, or to care for a child with a serious health condition. If the spouses have exhausted their combined 12-week entitlement and one or both employees need FMLA leave for a reason that is not subject to the combined limit, then the spouse is entitled to additional FMLA leave up to the individual 12-week entitlement.

Both spouses who are eligible for FMLA leave are limited to a combined total of 26 workweeks of leave during the single 12-month period if one of the reasons is to care for military caregiver leave, or if military caregiver leave is one of the reasons for leave and leave is also for the birth of a child, the placement of a healthy child by adoption or for foster care, or to care for a parent with a serious health condition. The spouses remain limited to a combined maximum of 12 weeks of FMLA leave for reasons other than military caregiver leave as specified above.

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1. "Block" FMLA leave is leave for a continuous period of time. Such leave may be taken for any of the reasons permitted by the FMLA.
2. "Intermittent" leave means leave taken in separate periods of time for a single qualifying FMLA reason and may include periods of leave ranging from an hour or more to several weeks. For example, intermittent leave may include (a) leave taken for a partial or full workday for scheduled medical appointments, or (b)

leave taken on an occasional or "as needed" basis due to episodic flare-ups of a chronic condition.

3. "Reduced Schedule" leave is leave that reduces the employee's usual number of scheduled work hours per workday or per workweek for some period of time. For example, an employee may need to work a reduced schedule for a set number of weeks while recovering from a surgical procedure.

Intermittent or reduced schedule leave may be taken (a) when medically necessary for an employee's or covered family member's serious health condition, or for a covered servicemember's serious illness or injury, and (b) the need for leave can best be accommodated through an intermittent or reduced schedule leave. More specifically, FMLA leave may be taken intermittently or on a reduced schedule basis:

1. When medically necessary for planned or unanticipated medical treatment, or for treatment that is required by a health care provider periodically (e.g., leave taken for chemotherapy or for prenatal examinations);
2. For recovery from a serious health condition or a covered servicemember's serious injury or illness;
3. To provide care or psychological comfort to a covered family member with a serious health condition or a covered servicemember with a serious injury or illness;
4. Where the employee or covered family member is incapacitated because of a chronic serious health condition;
5. Due to a qualifying exigency; or
6. To effectuate the placement of a child for adoption or foster care before the placement of the child.

Intermittent or reduced schedule leave may be taken following the birth or placement of a child only with the school district's permission.

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury.

Reduced leave is a leave schedule that reduces an employee's usual number of hours per work week or hours per work day.

Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent. Such leave may not be used for the birth or adoption/placement of a child.

The employee who wishes to use intermittent or reduced leave must have the prior approval of the district. Although the district and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave, but the district may transfer the employee to a position which is equivalent, but more suitable for intermittent periods of leave. The employee must furnish the district with the expected dates of the planned medical treatment and the duration of the treatment. The superintendent or designee must authorize such leave in writing.

- **Benefits**

The district will maintain the employee's health coverage under the district's group health insurance plan during the period of FMLA leave. The employee should make arrangements with the district to pay the employee's share of health insurance (e.g. family coverage) prior to the beginning of the FMLA leave.

Increases in premiums or deductibles that apply to active employees also apply to employees on FMLA leave. An employer may drop coverage for an employee whose premium payment is late only after providing written notice to the employee that the payment has not been received. This notice must be mailed to the employee at least 15 days before coverage is to end and will advise that coverage will be dropped 15 days after the date of the letter unless payment has been received.

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

- Notice

When the FMLA leave is foreseeable, the employee must notify the district of his/her request for leave at least 30 days prior to the date when the leave is to begin. If the leave is not foreseeable, the employee must give notice as early as is practical, ordinarily ~~within one or two business days the same or the next business day~~. When the employee requests medical leave for planned medical treatments, the employee must make reasonable attempts to schedule treatment so as not to unduly disrupt the district's operations.

The district may deny the leave if the employee does not meet the notice requirements.

- Designation of leave as FMLA leave

The district must designate the leave as paid or unpaid FMLA leave. The district must also provide other written information concerning the employee's rights and obligations under FMLA.

- Certification

An employee may be required to submit a completed certification form supporting the need for FMLA leave. The appropriate form will be provided to the employee. The employee must submit a complete and sufficient certification form as required within fifteen (15) calendar days of receiving the request for the completed certification. If it is not practicable for the employee to provide the completed form by the due date despite the employee's diligent, good faith efforts, the employee must inform Human Resources/the FMLA Administrator of the reason(s) for delay and what efforts the employee undertook to obtain the required certification. FMLA-protected leave may be delayed or denied if the employee does not provide a complete and sufficient certification as required in a timely manner, and other adverse employment consequences may be imposed. An employee may be required to submit documentation in addition to a completed certification form or in lieu of a certification form. (e.g., to establish a family relationship, or military active duty orders).

~~The district will require the employee to provide certification from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification, a second and if necessary, a third opinion can be required, both at the expense of the district. The school district may select the medical professional to furnish the second opinion. In the event that the second opinion differs from the initial opinion regarding FMLA leave entitlement, then a third~~

medical opinion will be obtained at the school district's expense through a mutually agreed upon health care provider. The third health care provider's opinion will be binding.

Upon the employee's return to work, the district will require that the employee present a fitness statement to Human Resources from the employee's health care provider certifying that the employee is able to return to work.

- Recertification

Recertifications may be required under the following circumstances:

1. Every six months or annually in connection with an FMLA-related absence by the employee if the previous certification indicates that the employee will need intermittent or reduced schedule leave for a period in excess of six or 12 months;
2. The circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications); or
3. Whenever the school district receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

- Restoration

When the employee returns from leave, the district will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment in accordance with board policy. The employee's right to return to the same or an equivalent position is contingent upon the employee's continued ability to perform all the essential functions of the job within the confines of any medical work restrictions. An equivalent position is one that is the same or substantially similar in duties, responsibilities, conditions, privileges and status as the original position.

~~Under certain circumstances, the district may deny restoration to a key employee. The district will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the district to experience a substantial and grievous economic injury.~~

- Instructional employees

Special leave rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a small group or an individual setting. This term includes teachers, athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired. It does not include instructional aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is to care for a family member or for the employee's own serious health condition and the leave is foreseeable based on planned medical treatment and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, then the district may require the employee to choose one of the following.

- take the leave for a period or periods of a particular duration, not greater than the duration of the planned treatment
- 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

Employees taking leave which constitutes 20% or less of the working days during the leave period would not be subject to transfer to an alternative position.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five weeks before the end of a semester, the district may require the employee to continue taking leave until the end of the semester under these conditions.

- the leave will last at least three weeks
- the employee would return to work during the three-week period before the end of the semester

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the district may require the employee to continue taking leave until the end of the semester under these conditions.

- the leave will last more than two weeks
- the employee would return to work during the two-week period before the end of the semester

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively, rather than intermittently. Summer and other vacations may not be counted against an employee's FMLA leave entitlement. An instructional employee on FMLA leave at the end of the school year must receive normal benefits over the summer vacation.

- Failure to return

The district is entitled to recover health care premiums paid during the leave if the employee fails to return from leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence or onset of a serious health condition or due to circumstances beyond the control of the employee.

Outside Employment and Vacation During FMLA Leave

An employee who is on FMLA leave may not engage in employment for any other employer or engage in self-employment while on leave. In addition, an employee on FMLA leave for his or her own serious health condition may not engage in leisure activities or personal travel (e.g., vacation) that is inconsistent with the medical condition that incapacitates the employee from working his or her job. If the employee is using available paid leave that is running concurrently with FMLA leave for the employee's own serious health condition, the employee must remain in the general vicinity of his or her place of residence during the period of such leave. Dishonesty related to such activities (i.e., work or personal travel) are violations of this policy.

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