

## **FAMILY AND MEDICAL LEAVE POLICY**

### **PURPOSE:**

To outline the conditions under which an employee may request time off without pay for; a limited period with job protection and no loss of accumulated service if the employee returns to work.

### **I. DEFINITION:**

A family or medical leave of absence is defined as an approved absence available to eligible employees for up to 12 workweeks (or 26 workweeks if the leave is to care for a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves with a serious injury or illness) of unpaid leave during a 12-month period under particular circumstances that are critical to the life of a family. To determine the amount of Family Medical Leave Act ("FMLA") to which an employee is entitled, the 12-month period is measured backward from the date that the employee uses any FMLA leave. In other words, any FMLA leave that was taken by the employee during the 12 months preceding the date that the employee takes additional FMLA leave will be counted to determine the amount of FMLA leave remaining.

Leave may be taken:

- on the birth of an employee's child;
- on the placement of a child for adoption or foster care with an employee;
- when an employee is needed to care for a child, spouse, or parent who has a serious health condition;
- when an employee is needed to care for a spouse, child, parent or next-of-kin who is a member of the Armed Forces with a serious injury or illness;
- for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation; or
- when an employee is unable to perform at least one of the essential functions of his or her position because of the employee's own serious health condition

### **II. SCOPE:**

This policy applies to family and medical leaves of absences taken in addition to leaves that are covered under paid employment benefit plans or policies. In other words, if an employee is entitled to both FMLA leave and paid leave under another benefit plan or policy, the employee may choose to use all applicable paid leave plans or policies before the 12 workweeks' unpaid FMLA leave begins to run. In the alternative, the employee may choose to use any available unpaid FMLA leave prior to using paid leave available under another benefit plan or policy.

### **III. ELIGIBILITY:**

To be eligible for leave under this policy, an employee must have been employed by the District for at least 12 months and must have worked at least 1,250 hours during the 12 month period preceding the beginning of the leave. While the 12 months of employment need not be consecutive, employment

periods prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA), or a written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service.

**Exception:** If an employee on leave is salaried and among the highest paid 10% of District employees, and keeping the job open for the employee could result in substantial and grievous economic injury to the District, the employee can be denied job restoration after leave. In this situation, however, the employee will be given an opportunity to return to work during leave.

#### **IV. BASIC REGULATIONS AND CONDITIONS OF LEAVE:**

**Medical certification.** The District will require medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, or parent. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform at least one of the functions of his or her position. For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the amount of time that the employee is needed to provide care.

The District reserves the right to require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the District may require the binding opinion of a third health care provider, approved jointly by the District and the employee and paid for by the District.

**Intermittent or reduced leave.** Leave may be taken on an intermittent or reduced-leave schedule if it is medically necessary for a serious health condition of the employee or his or her spouse, child, or parent. If leave is requested on this basis, however, the District reserves the right to require the employee, subject to any collective bargaining agreement, to transfer temporarily to a part-time schedule or an alternative position that better accommodates recurring absences. The alternative position will have equivalent pay and benefits.

**Spouses combined leave.** Spouses who are both employed by the District are entitled to a joint total of 12 workweeks of leave rather than 12 weeks each for the birth or placement for adoption or foster care of a child or for the care of a sick parent. They are entitled to a joint total of 26 workweeks if the leave is to care for a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves with a serious injury or illness. For any other qualifying FMLA reason, each spouse will be entitled to the full 12 weeks of FMLA leave, or that portion of leave remaining in the relevant 12 month period.

**Restoration to an equivalent position.** Following FMLA leave, employees will be restored to a position with equivalent pay, benefits and other terms and conditions of employment. The determination of how an employee will be restored to an equivalent position upon return from FMLA leave will be made on the basis of established District policies and practices and collective bargaining agreements, if any. Copies of such policies are available from the Office of Human Resources, 3350 Foothill Blvd., Rock Springs, Wyoming 82901.

**V. NOTIFICATION AND REPORTING REQUIREMENTS:**

When the need for leave is foreseeable, such as the birth of a child, the placement for adoption or foster care of a child, or planned medical treatment, the employee must provide ten (10) days' advance notice. In addition, the employee must make an effort to schedule leave so that it does not unduly disrupt District operations. Employees who are will be required to report periodically on their status and their intention to return to work.

**Failure to Provide Advance Notice.** If an employee fails to provide ten (10) days' advance notice for a foreseeable leave, the District may delay the grant FMLA leave until ten (10) days after the date the employee provides the required notice.

**VI. STATUS OF EMPLOYEE BENEFITS DURING LEAVE OF ABSENCE:**

**Health insurance.** Group health care coverage will continue for employees on leave as if they were still working. The District will continue to pay group health insurance premiums for employees who are granted an approved leave of absence under this policy.

**Other benefits.** Other benefits, such as life insurance, disability insurance will continue for employees on leave as if they were still working. For employees who are granted an approved leave of absence under this policy, the District will pay premiums on these benefits to the extent it paid them while the employee was working.

**Recovery of premiums.** If an employee chooses not to return to work after an approved unpaid leave of absence, the District will not seek to recover from the employee the cost of any payments made to maintain the employee's benefits. Benefit entitlements based on length of service will be calculated as of the last paid workday before the start of the unpaid absence.

**VII. PROCEDURES:**

**Request form.** The employee must fill out a Request for Family and Medical Leave of Absence Form in duplicate. This form must be completed in detail, signed by the employee, submitted to the immediate supervisor for proper approvals, and forwarded to the Office of Human Resources (see attached copy of "Request for Family and Medical Leave of Absence" form). If possible, the form should be submitted ten (10) days before effective date of the leave.

All requests for family and medical leaves of absence due to illness must include sufficient medical certification stating:

- (1) the date on which the serious health condition began;
- (2) the probable duration of the condition; and
- (3) the appropriate medical facts that the health care provider knows about the condition.

In addition, for leave to care for a child, spouse, or parent, the certificate must include an estimate of the amount of time that the employee is needed to provide such care.

For leave for an employee's illness, the certificate must state that the employee is unable to perform at least one of the functions of his or her position.

For certification for intermittent leave or leave on a reduced-leave schedule for planned medical treatment, the certificate must state the dates on which such treatment is expected to be given and the duration of the treatment.

### **VIII. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES:**

**Instructional employees.** Instructional employees are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. The term includes teachers, athletic coaches, driving instructors, and special education assistants, such as signers for the hearing impaired.

It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include such auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

**Intermittent or reduced leave for instructional employees.** Instructional employees may take intermittent or reduced leave for the reasons stated in Section IV, above. If instructional employees request leave which constitutes twenty (20) percent or less of their working days, the District will not require instructional employees to transfer temporarily to a part-time schedule or an alternative position that better accommodates recurring absences. However, if the requested leave constitutes more than twenty (20) percent of the instructional employee's working days, the District reserves the right to require the employee, subject to the collective bargaining agreement, to transfer temporarily to a part-time schedule or an alternative position that better accommodates recurring absences. The alternative position will have equivalent pay and benefits.

**Taking leave near the end of an academic term.** Normal rules apply, except where an instructional employee:

- a. *Takes leave more than five weeks before the end of a term.* The District may require the employee to continue taking leave until the end of the term if the leave will last at least three weeks and the employee would return to work during the three-week period before the end of the term.
- b. *Begins leave for a purpose other than the employee 's own serious health condition during the five-week period before the end of a term.* The District may require the employee to continue taking leave until the end of the term if the leave will last for more than two weeks and the employee would return to work during the two-week period before the end of the term.
- c. *Begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term.* The District may require the employee to continue taking leave until the end of the term if the leave will last for more than five working days.

When an instructional employee takes leave near the end of an academic term and the District requires the employee to take leave until the end of the academic term, the period during which the employee was ready and able to return to work shall not be charged against the employee's FMLA leave entitlement.

**IX. EFFECT OF COLLECTIVE BARGAINING AGREEMENT:**

The provisions of this policy will govern all family and medical leave, unless modified by any collective bargaining agreement.

**X. EFFECT OF OBTAINING FMLA LEAVE THROUGH FRAUD:**

An employee who fraudulently obtains FMLA leave from the District is not protected by FMLA's job restoration or maintenance of health benefits provisions.

Adopted: 11/8/99

School District #1, Sweetwater County, Wyoming