

**FAMILY AND MEDICAL LEAVE****SECTION I: ELIGIBILITY**

Employees are eligible for family and medical leave if they have been employed by the District for at least 12 months and have worked at least 1,250 hours (156 days for eight-hour-day employees or 208 days for six-hour-day employees) during the preceding 12 month period.

Eligible employees are entitled to a maximum of 12 workweeks of unpaid leave during a 12-month period only for the following reasons:

- A. The birth, adoption, or placement of a child;
- B. The care of a child, spouse, or parent with a serious health condition;
- C. The employee's own serious health condition because of which he or she is unable to work;
- D. For qualifying exigencies stemming from an employee's spouse, son, daughter, or parent being on active duty or call to duty status as a member of the National Guard or Reserves in support of the contingency operation.

**Military Caregiver Leave:** Eligible employees may take up to 26 weeks of unpaid leave during a single 12-month period, to care for a family member who is a covered servicemember with a serious injury that was incurred in the line of duty on active duty. Eligible employees for military caregiver leave include spouse, child, parent, or next of kin as defined in the federal regulations.

**SECTION II:DEFINITIONS**

For purposes of this policy, the following definitions apply:

- A. A "serious health condition" is defined as an "illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, subsequent treatment in connection with such inpatient care, or continuing treatment by a health care provider.
- B. An "immediate family member" is an eligible employee's spouse, child, or parent. In-laws are not included.
- C. A "child" is a biological child, adopted child, foster child, or legal ward for whom the eligible employee is responsible for day-to-day care.
- D. An "instructional employee" is one whose principal function is to teach students and includes, but is not limited to, teachers, teacher assistants, coaches, driving instructors, and special education assistants. Employees not in this group are those whose principal job duties do not consist of actual teaching or instructing, including, but not limited to, teacher assistants or aides without such duties, counselors, curriculum specialists, bus drivers, secretaries, cafeteria workers, maintenance workers, other classified and/or certified employees.
- E. The "12-month period" within which an eligible employee may take up to 12 weeks of family or medical leave is that 12-month period measured from the date on which the employee's first family or medical leave begins.

## SECTION III: LEAVE BENEFITS AND CONDITIONS

All family and medical leave is unpaid leave. Before utilizing unpaid family or medical leave, eligible employees must first apply all earned paid leave time following district policies, with the remainder of the 12 weeks consisting of unpaid leave.

The following special conditions apply only to leaves for the birth, adoption, or placement of a child:

- A. The entitlement to leave for birth, adoption, or placement of a child expires 12 months from the birth, adoption, or placement of the child.
- B. Eligible employees may not take intermittent leave or leave on a reduced schedule for birth, adoption, or placement of a child unless prior approval is received from the FMLA Specialist. If such leave is granted, the employee may be temporarily transferred to an available position with equivalent pay and benefits that better accommodate the employee's need for intermittent leave.
- C. If both parents seeking leave for the birth, adoption, or placement of a child or to care for a parent who has a serious health condition, are employed in the district, they are entitled to a total leave period of 12 weeks or 26 weeks for "military caregiver leave."

## SPECIAL CONDITIONS FOR INSTRUCTIONAL EMPLOYEES

The following special conditions apply only to leave taken by instructional employees:

- A. If an instructional employee requests intermittent leave or leave on a reduced leave schedule to care for a family member or because of his or her own serious health condition or resulting from planned medical treatment, and the employee would be on leave for more than 20% of the total number of working days over the leave period, the district may require the employee to either:
  1. Transfer to an equivalent position that better accommodates the recurring leave, or
  2. Take leave for periods of a particular duration not greater than the duration of the planned treatment.
- B. If an instructional employee begins leave more than five (5) weeks before the end of a semester, the district may require the employee to continue taking leave until the end of the semester if:
  1. The leave will last at least three (3) weeks, and
  2. The employee would return to work during the last three (3) weeks of the semester.
- C. If an instructional employee begins leave for a purpose other than his or her own serious health condition during the last five weeks of a semester, the district may require the employee to continue taking leave until the end of the semester if:
  1. The leave will last more than two (2) weeks, and
  2. The employee would return to work during the last two (2) weeks of the semester.
- D. If an instructional employee begins leave for a purpose other than his or her own serious health condition during the last three (3) weeks of a semester and the leave will last more than five (5) working days, the district may require the employee to continue taking leave until the end of the semester.

Although the family or medical leave for all eligible employees is unpaid leave once paid leave is exhausted, the employee is considered to be employed while on leave. Therefore, the employee is not entitled to unemployment compensation during the leave period.

## SECTION IV: NOTICE

If the need for leave is not foreseeable, an employee must provide notice to the FMLA Specialist within two (2) working days of learning of the need for leave, except in extraordinary circumstances.

If the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member, an employee must provide notice to the FMLA Specialist at least thirty (30) days before the leave is to begin.

If an employee fails to give at least 30 days advance notice for foreseeable leave with no reasonable excuse for the delay, the district may deny the taking of leave until at least thirty (30) days after the date of the notice.

When planning medical treatment, the employee should consult with the FMLA Specialist and make a reasonable effort to schedule the leave so as not to unduly disrupt the district's operations. Upon receipt of notice of leave, the district may, for a justifiable cause, require the employee to attempt to reschedule treatment, subject to the ability of the health care provider to reschedule the treatment and to the approval of the health care provider as to any modification of the schedule.

If intermittent leave or leave on a reduced leave schedule is requested, the employee must also provide the district with the reasons why such leave is necessary along with a schedule of the treatment, if applicable.

## SECTION V: MEDICAL CERTIFICATION

An employee, requesting leave to care for a family member or due to his or her own serious health condition, is required to provide medical certification of the need for leave from the health care provider at the time leave is requested. In the case of a foreseeable need, leave will not be granted until the medical certification is provided. In the case of an unforeseeable need, the continuation of leave will be denied until the medical certification is provided.

The medical certification must be completed by the health care provider for the ill employee or family member and must contain the following information:

- A. The date on which the serious health condition began;
- B. The probable duration of the condition;
- C. The diagnosis and appropriate medical facts regarding the condition;
- D. If the leave is for the care of a family member, a statement that the employee is needed to provide care and an estimate of the amount of time such need will continue;
- E. If the leave is due to the employee's serious health condition, a statement that the employee is unable to perform the essential functions of his or her job; and
- F. The dates of any intermittent treatment and the duration of such treatment.

If the District determines that the medical certification is incomplete or insufficient, the district must inform the employee in writing what additional information is necessary to make the certification complete and sufficient. The employee then has seven calendar days to submit a corrected medical certification.

If the FMLA Specialist determines that reason to doubt the validity of the medical certification exists, the District may require the employee to obtain a second medical opinion from an independent health care provider selected by the District and at the District's expense. If the first and second opinions differ, the District may require the employee to obtain certification from a third health care provider jointly selected by the district and the employee and at the district's expense. The parties will be bound by the third medical

opinion. The District has the right to request a new medical certification each leave year for medical conditions lasting longer than one(1) year.

The District may require recertification every month unless the certification lists a minimum duration of incapacity. However, in all cases, the District may request recertification of an ongoing condition every six (6) months in conjunction with an absence. Failure to provide recertification may result in revocation of leave.

#### SECTION VI: ACCRUED BENEFITS

An eligible employee who takes family or medical leave will not lose employment benefits other than the loss of earned paid leave time taken in conjunction with the family or medical leave. The employee is not entitled to the accrual of benefits during the unpaid leave period. Throughout the paid leave time taken under this policy, an eligible employee's coverage under any applicable district health benefit plan(s) will continue. For all unpaid leave time taken, an eligible employee may continue insurance coverage, if applicable; however, before the leave is taken, the employee must prepay the employee's premium contribution due under the insurance benefit plan(s). If the employee does not return to work following the leave period, the employee will be required to pay the district for contributions paid by the district during the leave period. However, no recovery will be made from an employee who fails to return from leave if the reason is the continuation, recurrence, or onset of a serious health condition, or something else beyond the employee's control, all of which is subject to the certification requirement in Section V, above.

#### SECTION VII: RETURN TO WORK

An employee returning to work from a family or medical leave shall be reinstated to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

If the leave was taken because of the employee's own serious health condition, the employee must provide a fitness-for-duty certification from his or her health care provider before returning to work.

When you are scheduled to return to work, you will need to provide your direct supervisor **and** the FMLA Specialist a Doctor's note releasing you to return to full duty with no restrictions. This needs to be submitted before you can clock in and return to work.

If you require additional time after your FMLA leave is scheduled to conclude, it is your responsibility to notify the District's FMLA Specialist at least two business days before the expiration of your initial leave. A doctor's note will need to be submitted to the FMLA Specialist stating the reason for the extension and the dates for the extension. Conversely, if you can return to work before the expiration of your initial leave, you must notify the District's FMLA Specialist at least two (2) business days before your return to work.

The district may deny job restoration to key employees under the following conditions:

- A. A "key employee" is among the highest-paid 10% of salaried employees. Upon requesting leave, the eligible employee must be given notice that he or she is a key employee and that he or she may be denied restoration of employment.
- B. If the employee was notified when leave was first requested, restoration of employment may be denied when the district determines that the taking of leave by the key employee would result in substantial and grievous economic injury to the district's operations.

## SECTION VIII: PROHIBITIONS

Consistent with the District's policy regarding all types of leave, the following conduct is strictly prohibited in relation to FMLA leave:

- Engaging in fraud, misrepresentation, or providing false information to the District or any health care provider.
- Having other employment during the leave, without prior written approval from the District.
- Failure to comply with the employee's obligations under this policy.
- Failure to timely return from leave.

Employees who engage in such conduct will be subject to loss of benefits, denial or termination of leave, and discipline, up to and including discharge.

## THE DISTRICT'S COMMITMENT

The District will not interfere with, restrain, or deny the exercise of any right provided by the FMLA, nor will it discharge or discriminate against any individual for opposing any practice or involvement in any proceeding relating to the FMLA.

SOURCE: Jackson Public School District, Jackson, Mississippi

LEGAL REF.: Family and Medical Leave Act of 1993; 29 CFR 825  
29 U.S.C. 2601, et. Seq.  
Mississippi Code Ann. § 37-7-307

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