

COMMODORE PERRY
SCHOOL DISTRICT

ADMINISTRATIVE
REGULATION

335-AR. FAMILY AND MEDICAL LEAVES

The purpose of the Family and Medical Leave Act is to enable employees to be absent from work without losing certain benefits for a designated number of work weeks.

Employee requests for FMLA leave will be processed in accordance with law, Board policy and the district's administrative regulations.

Eligibility

An employee who has been employed by the district for at least twelve (12) months is eligible for FMLA leave, provided the employee worked at least 1,250 hours in the twelve (12) months preceding the beginning of the leave.

Hours worked include all hours an employee works, including overtime, but do not include paid leave time, such as vacations, sick leave, personal leave or holidays.

Full-time instructional employees do meet the minimum hours requirement.

Reasons For Leave

An eligible employee qualifies for FMLA leave for the following reasons:

1. Birth and first-year care of a child.
2. Adoption or foster placement of a child.
3. Serious illness of an employee's spouse, child or parent.
4. Serious health condition that makes the employee unable to perform the essential functions of his/her position.
5. Qualifying exigency, as defined in Department of Labor regulations, arising from the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.
6. Care of a spouse, child, parent or next of kin who is a covered servicemember undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness.

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Birth/Adoption/Foster Placement/Of Child

An employee's eligibility for leave for a birth, adoption, foster placement or first-year care of a child expires at the end of the twelve-month period beginning on the date of the birth, adoption or foster placement.

If the necessity for leave is foreseeable based on expected birth or placement date, the employee will notify the district of his/her intention to take leave not less than thirty (30) days prior to the beginning date of the leave. If the date of birth or placement requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

Intermittent or reduced schedule leave will not be permitted for the birth, adoption, foster placement or first-year care of a child.

Serious Health Condition Of Employee

An employee is eligible for leave for a serious health condition that is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment by a health care provider.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or district and will notify the district of his/her intention to take leave not less than thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

The district will require that a request for leave because of the employee's serious health condition be supported by a certification issued by a health care provider. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Statement that the employee is unable to perform the position's functions.

An employee is eligible to take leave on an intermittent or reduced leave schedule because of his/her own serious health condition. The required certification must contain a statement of the medical necessity for this type of leave, the dates treatment is expected to be given, and the expected duration of such treatments.

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An employee is eligible to take intermittent or reduced schedule leave for planned treatment. The required certification must contain the dates the treatment is expected to be given and the duration of such treatments.

Serious Health Condition Of Spouse/Child/Parent

An employee is eligible for leave to care for a spouse, child or parent with a serious health condition that is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment by a health care provider.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or district and will notify the district of his/her intention to take leave not less than thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

The district will require that a request for leave to care for an employee's spouse, child or parent with a serious health condition be supported by a certification issued by a health care provider for the family member who needs care. The employee will provide the certification in a timely manner. The certification must include the following:

1. Date the serious health condition began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.
4. Statement that the employee is needed to care for the individual.
5. Estimate of the amount of time the employee is needed to care for the family member.

An employee is eligible to take intermittent or reduced schedule leave for planned medical treatment for a serious health condition of a spouse, child or parent when medically necessary. The required certification must contain a statement of the medical necessity for this type of leave, the dates treatment is expected to be given and the duration of such treatments.

Active Duty/Call To Active Duty

An employee shall be eligible for leave because of a qualifying exigency due to the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call to active duty.

If the necessity for leave is foreseeable, the employee will provide notice as soon as practicable.

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The district may require that a request for leave because of a qualified exigency be supported by a certification issued in accordance with regulations issued by the Secretary of Labor. The employee will provide the required certification in a timely manner.

Care Of Covered Servicemember

An employee is eligible for leave up to twenty-six (26) weeks per year to care for a covered servicemember who is a member of the Armed Forces, including the National Guard and Reserves, and is undergoing medical treatment, recuperation or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness.

If the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule treatment to minimize disruption of the operations of the school or district and will notify the district of his/her intention to take leave not less than thirty (30) days prior to the beginning date of the leave. If the date of treatment requires leave to begin in less than thirty (30) days, the employee will provide notice as soon as practicable.

The district will require that a request for leave to care for a covered servicemember be supported by certification signed by a health care provider of the individual in need of care. The employee will provide the required certification in a timely manner. The certification must contain the following:

1. Date the serious health condition, injury or illness began.
2. Probable duration of the condition.
3. Appropriate medical facts regarding the condition.

An employee is eligible to take intermittent or reduced schedule leave for planned medical treatment. The required certification must contain the dates the treatment is expected to be given and the duration of such treatments.

Leave to care for an ill or injured covered servicemember, when combined with other qualifying leave under FMLA, will not exceed twenty-six (26) weeks in a single twelve-month period.

Intermittent/Reduced Schedule Leave

An employee is eligible for intermittent or reduced schedule leave only for the employee's own serious health condition; to care for a seriously ill spouse, child or parent; or to care for a seriously injured or ill covered servicemember.

Intermittent leave is taken in blocks of time due to a single illness or injury, rather than one (1) continuous period of time.

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

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When an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the district may temporarily transfer that employee to an available alternative position with equivalent pay and benefits that better accommodates the employee's requested leave.

Instructional Employees

Specific rules apply to instructional employees, in addition to Board policy and the administrative regulations covering all employees.

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

When an instructional employee requests leave because of the employee's own serious health condition, to care for a spouse, child or parent with a serious health condition, or to care for a covered servicemember with a serious illness or injury; the leave is foreseeable based on medical treatment; and the employee would be on leave for greater than twenty percent (20%) of the total number of working days in the period of leave, the district may require the employee to elect either of the following:

1. To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment.
2. To transfer temporarily to an available alternative position offered by the district for which the employee is qualified and has equivalent pay and benefits and better accommodates recurring periods of leave than does the employee's regular position.

When an instructional employee begins FMLA leave more than five (5) weeks before the end of an academic term, the district may require the employee to continue the leave until the end of the term if the leave is at least three (3) weeks in duration and the return to work would occur during the last three (3) weeks of the academic term.

When an instructional employee begins FMLA leave for a purpose other than the employee's own serious health condition during the five-week period before the end of an academic term, the district may require the employee to continue the leave until the end of the academic term if the leave is longer than two (2) weeks in duration and the return to work would occur during the last two (2) weeks of the academic term.

When an instructional employee begins FMLA leave for a purpose other than the employee's own serious health condition during the three-week period before the end of an academic term, the district may require the employee to continue the leave until the end of an academic term if the leave is longer than five (5) working days in duration.

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When an instructional employee is required to continue leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work will be counted against the FMLA leave entitlement. However, the district will continue the group health insurance coverage under the same conditions as if the employee were working.

Spouses Employed By District

A husband and wife employed by the district who are both eligible for FMLA leave will be provided leave only for a combined total of twelve (12) weeks per year when the leave is taken for the birth, foster placement, adoption or first-year care of a child or to care for a parent with a serious health condition.

A husband and wife employed by the district who are both eligible for FMLA leave will be provided leave only for a combined total of twenty-six (26) work weeks per year if the leave is taken to care for a covered servicemember or is taken as a combination of leave to care for a covered servicemember and leave for the birth, foster placement or adoption of a child; to care for a child after birth, foster placement or adoption; or to care for a parent with a serious health condition.

If the FMLA leave taken by a husband and wife employed by the district includes a combination of leave taken for the birth, foster placement or adoption of a child or to care for the child after birth, foster placement or adoption, and to care for a parent with a serious health condition, the leave will be limited to twelve (12) work weeks per year.

Certification

An employee must submit required certification within fifteen (15) days after receiving the district's response to his/her request for leave, unless impracticable to do so.

When the district questions the validity of a certification, the district may require, at district expense, a second opinion from a health care provider designated by the district who is not regularly employed by the district.

When the second opinion differs from the original certification, the district may require, at district expense, a third opinion from a health care provider approved jointly by the district and the employee. The opinion of the third health care provider will be binding on the district and the employee.

Benefits During Leave

The district will maintain an employee's health care coverage under the district's group health insurance plan during an FMLA leave.

The employee must make arrangements with the district prior to the beginning of his/her leave for payment of the employee's share of health insurance costs.

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An employee on FMLA leave will not lose any other employment benefits accrued prior to the date the leave began but is not entitled to accrue seniority or employment benefits during the leave period.

Outside Employment

An employee on FMLA leave is prohibited from engaging in employment with another employer or self-employment.

Falsification of records and failure to correct records known to be false are violations of Board policy and these administrative regulations and will result in discipline, which may include termination of employment.

Return To Work

An employee on FMLA leave must report his/her status and intention regarding returning to work at least every four (4) weeks.

An employee returning to work must provide to the district at least five (5) work days' notice of his/her date of return.

When the FMLA leave is related to an employee's own serious health condition, the district will require the employee to submit certification from the employee's health care provider that the employee is fit to return to work.

An employee will be returned to the same or equivalent position at the end of the leave, unless the district demonstrates that the employee would not otherwise have been employed at the time reinstatement is requested.

Under specific circumstances, the district may deny restoration to a key employee. A key employee is one who is among the highest paid ten percent (10%) of district employees and whose absence would cause the district to experience a substantial and grievous economic injury.

If an employee fails to return to work after an FMLA leave for any reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to leave, or other circumstances beyond the employee's control, the district will recover from the employee the premiums it paid to maintain the employee's health care coverage during the leave.