



Policy Number: 2060

Dated: 05/16/2023

POLICY FAMILY AND MEDICAL LEAVE

PURPOSE

The Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. § 2601, et seq. and its implementing regulations, 29 CFR Part 825, grant eligible employees up to twelve (12) weeks of unpaid, job protected leave per year for certain family and medical reasons and for a qualifying exigency as described herein. This policy outlines rights, responsibilities, and procedures related to FMLA leave. The FMLA statute and regulations provide more detailed descriptions and should be consulted when questions arise.

DEFINITIONS

For purposes of this policy, the following definitions apply. The definitions are derived from federal regulations found at 29 CFR 825.102, which supersede any missing or conflicting provisions in this policy.

1. **“Eligible employee”** means an employee who has been employed by the school for a total of at least 12 months on the date on which any FMLA leave is to commence and who has worked for the school for at least 1,250 hours during the immediately preceding twelve (12) month period prior to any request for leave under this policy.
2. **“Employment benefits”** means all benefits provided by the school to its employees, such as group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pension or retirement benefits.
3. **“Health care provider”** means a licensed doctor of osteopathy or medicine and others listed in the applicable regulation.
4. **“Serious health condition”** means an illness, injury, impairment, or physical or mental condition that requires inpatient care consisting of an overnight stay in a hospital, hospice, or residential medical facility and subsequent treatment. Any period of incapacity due to pregnancy or prenatal care. Any period of absence to receive multiple treatments by a health care provider for restorative surgery or for treatment leading to incapacity for more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

REASONS FOR TAKING LEAVE

The school will grant leave, to eligible employees for any of the following reasons:

1. For the birth of a son or daughter, and to care for the newborn child.

2. To care for the employee's spouse, son or daughter, or parent who has a serious health condition.
3. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.
4. An expectant mother may take FMLA leave before the birth of the child for prenatal care if her condition makes her unable to work.

AMOUNT OF LEAVE

An eligible employee is entitled to a total of 12 workweeks of leave during any 12-month period.

ADVANCE NOTICE AND MEDICAL CERTIFICATION

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

1. The employee ordinarily must provide thirty (30) days advance notice when the leave is "foreseeable."
2. The school may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.
3. The employee shall make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the school.
4. Medical certification must include the following:
 - a. The date on which the serious health condition commenced.
 - b. The probable duration of the condition.
 - c. If additional treatments will be required for the condition, an estimate of the probable number of such treatments.
 - d. Which part of the definition of "serious health condition," if any, applies to the patient's condition and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.
 - e. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:
 - i. Is unable to perform work of any kind.
 - ii. Is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform, based on either information on a statement from the employer of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions.
 - iii. Must be absent from work for treatment.
 - iv. A statement that the serious medical condition prevents the employee from performing the tasks of the position or that requires the employee to attend and care for a son, daughter, spouse, or parent.

JOB BENEFITS AND PROTECTION

1. For the duration of FMLA leave, the employer must maintain the employee's benefits, including health coverage under any "group health plan," as described above.
2. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
3. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
4. Employee's salary will be recalculated to account for their lost days and evenly spread across their remaining contracted period.
5. If an employee fails to return to work after leave expires for reasons other than continuation, recurrence, or onset of a serious health condition of the employee, son, daughter, or spouse, then the school may recover the premium paid for maintaining coverage for the employee during the leave period.

REFERENCES Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, et seq. & 29 CFR Part 825.