

**7400 PERSONAL LEAVES**

7415 Family and Medical Leave Act

The Warren County School District complies with all applicable federal and state labor and employment laws, including the Family and Medical Leave Act of 1993 (FMLA). Under the FMLA, eligible employees are entitled to certain rights, and have certain obligations, with respect to unpaid leave for qualifying reasons.

This unpaid leave applies to eligible employees who are absent from work for up to a total of 12 workweeks for the following reasons:

**Birth of a child and to care for such child.**

**The placement of a child for adoption or foster care.**

**To care for a spouse, child, or parent with a serious health condition.**

**A serious health condition of the employee which renders the employee unable to perform the functions of his/her position.**

**A “qualifying exigency” arising out of the fact that the employee’s spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.**

Eligible employee are entitled to FMLA leave of up to a total of 26 workweeks in a single 12-month period to care for a covered military service member with a serious injury or illness if the employee is the spouse, child, parent or nearest blood relative of the service member.

The provisions for military-related FMLA leave are described in greater detail below.

The 12-month period in which the 12-week leave entitlement occurs will be calculated on a fiscal year basis, from July 1<sup>st</sup> to June 30<sup>th</sup>. Leave to care for a newborn or for child placement expires at the end of the 12-month period beginning on the date of the birth or placement. Any such leave must be concluded within this one-year period.

The single 12-month period reference in leave to care for a military service member begins on the first day the FMLA leave begins and ends 12 months after that date. If all 26 workweeks of leave are not taken during this single 12-month period, the remaining part of the 26 workweeks is forfeited.

A leave of absence may be cancelled and disciplinary action may be taken if it is discovered that the leave is being used for purposes other than that for which it was granted, or if it has been determined that the employee has secured other

employment while on leave status. Failure to return to duty as directed or failure to return at the expiration of the leave will be treated as a voluntary resignation.

### **Eligibility**

To be eligible for a family/medical leave, an employee must be employed for at least 12 months and have actually worked at least 1,250 hours during the 12 months immediately preceding the commencement of the leave.

A husband and wife who are both employed by the District shall each be entitled to all FMLA rights.

### **Notice of Leave**

An employee is required to give 30 days advance notice of the need to take unpaid family/medical leave when it is foreseeable for the birth or placement of a child for adoption or foster care, or for planned medical treatment. When it is not practicable under the circumstances to provide such advance notice, e.g., premature birth, such notice must be given “as soon as practical”, ordinarily within one or two business days of when the employee learns of the need for the leave.

When planning medical leaves, employees should consult with their Supervisor when giving notice and make reasonable efforts to schedule the leave so as not to disrupt the operations of the Warren County School District. The Supervisor will seek final approval from the Human Resources Department.

Notice should be given either in person or by phone when medical emergencies are involved, and may be given by the employee’s spouse or other family member if the employee is unable to do so due to a serious health condition.

### **Use of Accrued Time**

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for FMLA leave. In addition, the District may require the employee to substitute accrued paid leave for unpaid FMLA leave, except where an employee uses sick time for his or her own serious health condition. In that case, the absences will not be counted toward FMLA leave until the employee exhausts any available sick leave. The term “substitute” means that the paid leave provided by the District, and accrued pursuant to established policies, will run concurrently with the unpaid FMLA leave. An employee’s ability to substitute accrued paid leave is determined by the terms and conditions of the District’s normal leave policy.

### **Medical Certification for a Serious Illness**

Employees requesting a leave because of their own serious health condition or to care for a covered relation with a serious health condition are required to provide medical certification from the relevant health care provider. Failure to provide medical certification in a timely fashion within 15 days is grounds for denial of leave or disciplinary action. The Warren County School District may require subsequent recertification on a reasonable basis. The District, at its expense, may require a second opinion designated by the District. If the second opinion conflicts with the original medical certification, the District, at its expense, may require a third medical opinion which will be mutually agreed upon between the employee and the District and will be the final decision.

**Intermittent Leave**

Employees are permitted to take an intermittent leave (i.e., a few days here, and a few days there) or a reduced leave (i.e., working half days) if the employee or a covered relation has a serious health condition and this is deemed medically necessary.

Time taken off for part of a work day, i.e., 4 hours, on a reduced leave does not count as an entire day of leave, but only as leave for the actual time taken, i.e., 4 hours. Thus, an employee who regularly works 8 hours per day and takes reduced leave of 4 hours per day can be reduced leave for 24 weeks. Time not worked is without pay after all eligible benefits are used.

If employees are on an intermittent or reduced leave that is based on planned medical treatment, they may be required to transfer to available alternative positions of equivalent pay and benefits which may better accommodate a recurring leave.

**Military-Related FMLA Leave**

FMLA leave also may be available to employees for reasons related to the military service of the employee or the employee's family members. The following provisions apply to our employees who are related to members of the United States Armed Forces.

**Exigency Leave**

**Employees who otherwise are eligible for FMLA leave are entitled to take FMLA leave for a "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter or parent either is on active duty or call to active duty as a member of any branch of the United States Armed Forces. "Covered active duty" for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country. "Covered active duty" for members of the reserve components of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation. For purposes of this policy, a "qualifying exigency" is defined in accordance with FMLA and NDAA regulations and may fall within one of the following categories:**

*Short-notice deployment;*

*Military events and related activities;*

*Childcare and school activities;*

*Financial and legal arrangements;*

*Counseling;*

*Rest and recuperation;*

*Post-deployment activities; and*

*Additional activities not encompassed in the other categories, but agreed to by the Warren County School District and employee.*

Leave taken for a “qualifying exigency” will be counted against an employee’s twelve (12) week FMLA entitlement.

Where the leave arises out of a call or impending call to active duty in the Armed Forces which is foreseeable (either because the employee is on active duty, or the employee’s spouse, son, daughter or parent is on active duty), the employee must provide as much notice as is reasonable and practicable under the circumstances.

Intermittent or reduced schedule leave may be available for a leave taken for a “qualifying exigency.”

#### **Military Caregiver Leave/Covered Service Member Leave**

**An eligible employee who is the spouse, son, daughter, parent or next of kin (that is, nearest blood relative) of a covered service member is entitled to a total of twenty-six (26) work weeks of leave during a twelve (12) month period to care for the covered service member. A “covered service member” is a member of the Armed Forces who is undergoing medical treatment, recuperation, therapy or is in “outpatient status” or otherwise on the temporary disability retired list for a serious injury or illness. A “covered service member” also includes a veteran “who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness” if the veteran was a member of the Armed Forces “at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.” The “serious injury or illness” in the case of a member of the Armed Forces means that injury or illness occurred in the line of active duty or a serious injury or illness that “existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces which renders the member medically unfit to perform the duties of the member’s office, grade, rank or rating in the armed forces. For a veteran, a serious injury or illness is defined as “a qualifying injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.” All other terms in this policy are defined in accordance with FMLA regulations.**

**Military Caregiver Leave is available only once per covered illness or injury.**

**In the single twelve (12) month period in which the twenty-six (26) weeks of Military Caregiver Leave is taken, the combined regular FMLA and Military Caregiver Leave cannot exceed twenty-six (26) weeks. However, an employee’s regular FMLA leave (that is, annual twelve week entitlement) is not subject to the “one time only limits.”**

**If a husband and wife both employed by the District would be entitled to the one-time twenty-six (26) week Military Caregiver Leave, all FMLA leaves of the spouses are combined to determine the annual limits.**

**Military Caregiver Leave may be taken on an intermittent or reduced leave schedule when medically necessary.**

**Benefit Eligibility**

During an approved unpaid family/medical leave, the District maintains the employee's health benefits under the same terms and conditions applicable to the employee's work status prior to the leave. Employees must continue to pay their portion of any insurance premium while on leave (i.e., health, dental or vision). Arrangements will be made with the Human Resources Department.

Employees not electing to return to work at the end of the leave period, are required to reimburse the District of the cost paid by the District for maintaining the employees coverage while on leave, unless the employee cannot return to work because of a serious health condition, or because of circumstances beyond their control. Employees are required to make arrangements to pay their portion of the premium, if applicable, by the 10<sup>th</sup> day of each month during the leave.

**Return to Work**

On return to work at the expiration of the leave, an employee will be reinstated to the position he/she held when the leave commenced or to an equivalent position (an equivalent position is one that has the same employment benefits, pay, and other terms and conditions of employment).

**Return from Leave**

If employees take leave because of their own serious health condition, they are required to provide medical certification that they are fit to return to work. Employees failing to provide the medical certification are not permitted to return to work until it is provided. Employees on family/medical leave may return earlier than the date of expiration of the leave if desired, with a medical certification.

An employee returning from family/medical leave must work the equivalent amount of time taken off before their next evaluation is due. This will ensure that the employee is fairly evaluated on a complete calendar year. The preceding years will revert back to the prior evaluation date.

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