

**BLOOMFIELD PUBLIC SCHOOLS**  
**Bloomfield, Connecticut**

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**ADMINISTRATIVE REGULATION**

**No. 4152.6(a)**  
**4252.6**

**RE:   Family and Medical Leave Act**  
**Personnel – Certified/Non-Certified**

**Approved: 5/12/2009**  
**Revised:   11/10/2015**

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**Family and Medical Leave Act**

The following administrative regulations apply only to the Family and Medical Leave Act (FMLA).

For purposes of this regulation the term “marriage” is defined to include a same-sex marriage that is legally recognized as a marriage under state law in Connecticut.

For purposes of this regulation, the term “spouse” refers to any individuals who are lawfully married under any state law, including individuals married to a person of the same sex who were legally married in a state that recognizes such marriage, but whose domicile (permanent residence) is in a state that does not recognize such marriages.

**Eligibility**

An employee who has worked for the District for at least 12 months is eligible for 12 work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave. The 12 months of employment need not be consecutive months. Hours worked includes all hours, including overtime, an employee works but does not include paid leave time such as vacations, sick or personal leave, holidays etc. Full time professional instructional employees who are exempt from the wage and hour law may be presumed to have worked the minimum hour requirement. Pursuant to USERRA, an employee returning from fulfilling his/her National Guard or Reserve military obligation shall be credited with the hours of service that would have been performed but for the period of military service in determining whether he/she worked the 1,250 hours of service in the District. (§825.110)

Paraprofessionals are also eligible to benefits equal to those under the federal FMLA if such paraprofessional was employed for at least one year and for at least 950 hours over the previous twelve month period preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

For purposes of FMLA leave a 12-month period is the district’s fiscal year, July 1 through June 30. *(Note: the district has the option of designating another 12-month period based on calendar year or other criteria set out in the act. The other options include calendar year; the 12-month period measured forward from the date of an employee’s first FMLA leave date; 12 month period measured backward from the date the employee takes any FMLA leave.)* The 12 months of employment need not be consecutive months.

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**Family and Medical Leave Act (continued)**

**Serious Health Condition**

A “serious health condition” that would entitle an employee to FMLA leave is one involving continuing treatment by a health care provider that results in a period of incapacity of more than three consecutive calendar days and involves either treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion followed by a regimen of continuing treatment under the supervision of the health care provider.

Over the counter medication, bed rest, taking of fluids, exercise and other activities that can be initiated without a visit to a health care provider do not constitute continuing treatment.

Chronic conditions such as asthma and diabetes are considered a serious health condition even if individual episodes of incapacity do not last more than three days. Furthermore, conditions need not be chronic or long term when the condition is one which is not ordinarily incapacitating but for which multiple treatments are given because the condition would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention. Regarding long-term chronic conditions, the condition need not be incurable. The condition may involve a permanent or long-term incapacity and be one for which treatment may not be effective. (29 C.F.R. 825.114.)

**Health Care Provider**

The definition of “health care provider” includes any health care provider recognized by the employer or accepted by the group health plan of the employer. It also includes clinical social workers. (29 C.F.R. 825.118.)

**Types of Leave**

An eligible employee may take FMLA leave for: (§825.200)

- the birth and first-year care of a child; (§825.120)
- the adoption or foster placement of a child; (§825.121)
- the serious illness of an employee’s spouse, parent or child; (§825.113, §825.122)
- the employee’s own serious health condition that keeps the employee from performing the essential functions of his/her job; (§825.113, §825.123)
- to care for an eligible member\* of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, or is otherwise on the temporary disability list for a serious injury or illness; (§825.122, §825.123)

\*spouse, son, daughter, parent or next of kin

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**Types of Leave (continued)**

- a qualifying exigency (such as making legal, financial, and child care arrangements and taking care of family obligations), as defined by Department of Labor regulations of a spouse, child, or parent of the employee who is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty status in the Armed Forces including deployment to a foreign country or to international waters; and
- a veteran suffering a service related illness or injury that was incurred or aggravated while on active duty (or existed before the beginning of the service member's active duty and was aggravated by service in the line of duty on active service) within five years after a veteran leaves service.

An employee may elect, or the District may require, an employee to use accrued paid vacation, personal or family leave for purposes of a family leave. An employee may elect, or the District may require, an employee to use accrued vacation, personal or medical/sick leave for purposes of a medical leave. An employee cannot compel the District to permit the employee to use accrued medical/sick leave in any situation which the leave could not normally be used.

All FMLA absences for the same qualifying reason are considered a single leave and the employee maintains eligibility as to that reason for leave throughout the applicable 12-month period.

An eligible employee for FMLA leave must receive at the time of their eligibility notice a written notice of "Rights and Responsibilities" detailing their specific expectations and obligations and explaining the consequences of their failure to meet these obligations. This notice shall include any requirement to provide medical certification, the right to substitute paid leave, payment for benefits and job restoration rights upon expiration of the leave.

**Spouses Employed by the School District**

If spouses, as defined in this regulation, eligible for leave are employed by this school district, their combined amount of leave for birth, adoption, foster care placement and parental illness may be limited to 12 weeks. An employee may not take FMLA leave to care for a parent-in-law.

**Unforeseeable, Continuous, Intermittent and Reduced Leave**

Unforeseeable leave involves situations such as emergency medical treatment or premature birth.

Continuous leave is taken for a set number of days or weeks.

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

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**Unforeseeable, Continuous, Intermittent and Reduced Leave (continued)**

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

Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent. Such leave may not be used for the birth or adoption/placement of a child or to care for a newborn or recently adopted child. In the case of foreseeable intermittent or reduced leave, the employee must schedule the leave to minimize disruption to the district's operation.

The employee who wishes to use intermittent or reduced leave shall, whenever possible, give prior notification to the District. Although the District and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave but the district may transfer the employee to a position which is equivalent, but more suitable for intermittent periods of leave provided said leave amounts to more than twenty (20) percent of the total number of working days in the period during which the leave would extend. The employee must furnish the District with the expected dates of the planned medical treatment and the duration of the treatment. The Superintendent must authorize such leave in writing.

**Employee Entitlement to Service Member FMLA**

The federal FMLA and the Connecticut paraprofessional FMLA provisions entitle eligible employees to take leave for a covered family (spouse, son, daughter, parent) member's service in the Armed Forces. Except as listed in this section, an employee's rights and obligations to service member FMLA leave are governed by existing FMLA policy and regulations.

Service member FMLA provides eligible employees unpaid leave for a covered family member's service in the Armed Forces, for any one or for a combination of the following reasons:

- A "qualifying exigency" arising out of a covered family member's active duty or call to covered active duty in the Armed Forces including deployment to a foreign country or to international waters may include issues arising from short notice deployment, attending certain military events, arranging for alternate childcare, attending school activities, addressing certain financial and legal arrangements, attending certain counseling sessions, engaging in rest and recuperation, parental care and attending post-deployment reintegration briefings as well as participating in additional activities arising out of the active duty or call to active duty. In order to secure leave for a qualifying exigency, employees must submit a completed DOL Form WH-384 along with a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status, and the dates of the military member's covered active duty service. DOL Form WH 384 must be completed and returned within 15 calendar days of the date the District distributes the Form to the employee;

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**Employee Entitlement to Service Member FMLA (continued)**

- To care for a covered family member who has incurred a serious injury or illness in the line of duty while on covered active duty in the Armed Forces including a member of the National Guard or Reserves, provided that such duty or illness may render the family member medically unfit to perform duties of the member's office, grade, rank or rating; and/or
- To care for a veteran suffering a service related illness or injury, as long as the veteran was a member of the Armed Forces, National Guard, or Reserves within five years of requiring care.

When leave is due to a "qualifying exigency" of a service member, an eligible employee may take up to 12 work weeks of leave during any 12 month period. Eligible employees can take more than one period of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 work weeks of leave may be taken within any single 12-month period.

Leave that qualifies both as leave to care for a covered service member and leave taken to care for a family member with a serious health condition during the "single 12-month period" cannot be designated and counted as both leave to care for a covered service member and leave to care for a family member with a serious health condition.

Employees are not obligated to provide notice to the District when they first become aware of a covered family member's active duty or call to active duty status. An employee's obligation to provide notice of leave due to a qualifying exigency is triggered when the employee first seeks to take such leave. Where this leave is foreseeable, eligible employees must provide notice to the District that is "reasonable and practicable."

In compliance with the final FMLA rule, §825.310, separate certification requirements shall be utilized for military caregiver leave. The District shall use the DOL WH-385 (Revised February 2013) form in obtaining medical certifications of Military Caregiver Leave.

When such leave is to care for an injured or ill service member, an eligible employee may take up to 26 work weeks of leave during a single 12-month period to care for the covered service member (either currently serving service member or covered veteran). Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. In order to care for a covered service member, an eligible employee must be the spouse, son, daughter, or parent or next of kin of a covered service member.

Service member FMLA runs concurrent with any other leave entitlements provided under federal, state or local law.

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**Personal Leaves (continued)**

In order to secure this extended leave, employees must submit a completed DOL Form WH-385 (current service member) or WH-385 (veteran). This Form must be completed and returned within 15 days of the date the district distributes the Form to the employee.

**Definitions**

**Covered Service Member:** A member of the Armed Forces, including a member of the National Guard or Reserves, who 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; or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy, and was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

**Covered Active Duty:** In the case of a member of a regular component of the Armed Forces, duty during deployment of the member of the Armed Forces to a foreign country; and in the case of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. §101(a)(13)(B).

**Next of Kin:** The nearest blood relative of an individual. (In this order: brother, sister, grandparents, aunts, uncles, first cousins) Excluded are the covered service member's spouse, parent, son or daughter, as they already are entitled to leave for this purpose. A covered service member may designate, in writing, another blood relative as his or her nearest blood relative for purposes of military caregiver FMLA leave. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to care for the covered service member either consecutively or simultaneously. When a designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin.

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**Definitions** (continued)

**Outpatient Status:** With respect to a covered service member, this means the status of a member of the Armed Forces assigned to:

- (a) a military medical treatment facility as an outpatient; or
- (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**Qualifying Exigency** The U.S. Department of Labor’s definition of this term includes the following eight (8) situations: (1) short-notice deployment, (2) military events and related activities, (3) childcare and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post deployment activities, and (8) additional activities to address other events which arise out of the covered military member’s active duty or call to active duty status, provided the employer and employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave. (See form WH-384)

**“Single 12-Month Period”** The U. S. Department of Labor has determined that for purposes of military caretaker leave is a period that commences on the date an employee first takes leave to care for a covered service member with a serious injury or illness.

**Serious Injury or Illness:** In the case of a current member of the Armed Services, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the 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 may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating.

In the case of a covered veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period of five (5) years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces or existed before 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, and is

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**Definitions** (continued)

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

In order to secure this extended leave, employees must submit a completed DOL Form WH-385 (current service member) or WH-385V (veteran). This Form must be completed and returned within 15 calendar days of the date the District distributes the Form to the employee.

**Leave to Care for a Covered Service Member**

If the necessity for leave is foreseeable based on planned medical treatment, the employee shall:

1. make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the District; and
2. provide the District with at least 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave. If the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

The Board of Education may require that a request for leave to care for a covered service member be supported by a certification issued by the health care provider of the person in need of care. The employee shall provide, in a timely manner, a copy of such certification to the District.



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**Leave to Care for a Covered Service Member** (continued)

Certification will be sufficient if it states:

1. the date on which the serious health condition or serious injury or illness commenced;
2. the probable duration of the condition; and
3. the appropriate medical facts within the knowledge of the health care provider regarding the condition.

If leave is to be taken on an intermittent or reduced leave schedule for planned medical treatment, the certification must contain the dates on which such treatment is expected to be given and the duration of such treatment.

**Leave Related to Active Duty or a Call to Active Duty**

If the necessity for leave because of a qualifying exigency arising from the fact that a family member is on covered active duty or has been notified of an impending call to active duty is foreseeable, the employee shall give such notice to the District as is reasonable and practicable.

The Board may require that a request for leave because of a qualified exigency arising from the fact that the employee's spouse, son, daughter, or parent or covered service member is on covered active duty or has been notified of an impending call to covered active duty be supported by a certification issued in accordance with regulations issued by the Secretary of Labor. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the school district.

**Benefits**

The District will maintain the employee's health coverage under the District's group health insurance plan during the period of FMLA leave. The employee should make arrangements with the District to pay the employee's share of health insurance (e.g. family coverage) prior to the beginning of the FMLA leave.

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

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**Personal Leaves (continued)**

**Notice**

When the FMLA leave is foreseeable, the employee must notify the District in writing of his/her request for leave at least 30 days prior to the date when the leave is to begin. The employee must explain the reasons for the needed leave so as to allow the District to determine whether the leave qualifies under FMLA. Failure to give notice may result in the leave beginning thirty days after notice was received. If the leave is not foreseeable, the employee must give notice as early as is practical under the facts and circumstances of the particular case, but no later than one to two work days after learning that leave will be necessary. A spouse or family member or other responsible party may give the notice if the employee is unable to personally give notice. When the employee requests medical leave, the employee must make reasonable attempts to schedule treatment so as not to disrupt the District's operations.

The District, as required, will post and keep posted on its premises, a notice explaining the provisions of FMLA and with information concerning the procedures for filing complaints of violations of the Act. Electronic posting is sufficient to meet this posting requirement. The notice must be posted even if the District has no FMLA-eligible employees. The FMLA notice, in the absence of an employee handbook, shall be given to each employee when hired.

The District, when a request for FMLA leave is received, will provide the employee the following information, listing the employee's obligations and requirements:

1. A statement clarifying whether the leave qualifies as family and medical leave and will, therefore, be credited to the employee's annual 12-week entitlement.
2. A reminder that employees requesting family and medical leave for a serious health condition or for that of an immediate family member must furnish medical certification of the serious health condition and the consequences for failing to do so.
3. An explanation of the employee's right to substitute paid leave for family and medical leave including a description of when the school district requires substitution of paid leave and the conditions related to the substitution.
4. A statement notifying employees for paying any premium or other payments to maintain health or other benefits.

(This notice may be accompanied by the FMLA medical certification form if the District requests its employees to complete such form. The notice of rights and responsibilities may be distributed electronically.)

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**Personal Leaves**

**Notice** (continued)

The District must notify the employee, in writing, of his/her eligibility to take FMLA leave within five (5) business days of receiving said request, with medical certification(s) and any other required information, absent extenuating circumstances. The District may provide the “Eligibility” and “Designation” notices at the same time if there is sufficient information to do so.

In situations where the District has failed to provide timely notice and the delay does not cause the employee harm or injury, retroactive notice may be provided. In all cases where leave would qualify for FMLA leave protection, the District and the employee can mutually agree that the leave be retroactively designated as FMLA leave.

District failure to provide required notice can be considered “interference” with an employee’s FMLA rights.

The District may deny the leave if the employee does not meet the notice requirements.

**Certification**

The District shall require the employee to provide certification of the employee’s serious health condition from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification a second, and, if necessary, a third opinion can be required both at the expense of the District. The health care provider designated or approved by the District may not be employed by the school system on a regular basis. In the case of a third opinion, the opinion of the third health provider will be binding on both the school district and the employee. The District shall also require the employee to present medical certification of the family member’s serious health condition and that it is medically necessary for the employee to take leave to care for the family member.

If the leave was for reasons related to the employee’s serious health condition, upon the employee’s return to work, the District will require that the employee present a fitness statement from the employee’s health care provider certifying that the employee is able to return to work.

The required certifications must be obtained from the health care provider who is treating the individual with the serious health condition.

Medical certification must be provided fifteen days after the request for medical certification unless it is impracticable to do so. Employees taking family and medical leave for the birth, adoption or foster care of a son or daughter are not required to obtain a medical certification. The District may request recertification every thirty days. Recertification must be submitted within fifteen days of the District’s request.

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**Personal Leaves**

**Certification** (continued)

The District will utilize separate medical certificates forms when employees request leave to care for a family member with a serious health condition and for those situations when the medical need for leave is prompted by the employee's own serious health condition.

The District will notify employees, in writing, of any additional information that is necessary to complete the medical certificate and allow employees seven (7) calendar days to provide said additional information. If the employee fails to submit a complete and sufficient certification despite the opportunity to cure the deficiency, the District may deny FMLA leave.

Family and medical leave requested for the serious health condition of the employee or to care for a family member with a serious health condition which is not supported by medical certification shall be denied until such certification is provided. The District requires sufficient FMLA certification in support of any request for FMLA leave for either the employee's own or a covered family member's serious health condition.

Verification must also be presented when requesting FMLA leave to care for the employee's spouse, son, daughter or parent with a serious health condition.

Upon request by the District, employees must provide FMLA certification even when substituting paid leave.

The District may request medical recertification for continuing, open-ended conditions, every six months. Medical recertification may be requested on a more frequent basis if there are other changed circumstances or for other reasons as outlined in the FMLA regulations.

The District may require annual medical certifications in cases where serious health conditions extend beyond a single leave year. This does not apply to certificates to support a request for injured service member leave.

**Restoration**

An employee's right to return to the same or an equivalent position is contingent upon the employee's continued ability to perform all the essential functions of the position. The District may demand more than a "simple statement" of the ability to return to work. Fitness for duty certification for intermittent leave may be requested by the District if reasonable safety concerns exist.

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**Restoration** (continued)

When the employee returns from leave, the District will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms and conditions of employment shift, and geographically proximate workplace in accordance with Board policy, practices and applicable collective bargaining unit agreements. Employees are entitled to any unconditional pay increase, such as cost of living increases, that occur during the period to their FMLA leave.

Under certain circumstances, the District may deny restoration to a key employee. The District will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10% of the employees and whose absence would cause the District to experience a substantial and grievous economic injury.

Further, the District may deny restoration to an employee if the District shows that the employee would not otherwise be employed at time of reinstatement for reasons such as layoff, shift or special project elimination. In addition, collective bargaining agreements between the Board and employee groups will not diminish the rights of the employee established by FMLA.

A returning employee cannot be restored to a position that requires additional licensure of certification.

Employees are not entitled to accrue seniority during any FMLA leave, but taking the leave may not result in the loss of any benefits that were accrued prior to the leave.

**Instructional Employees**

Special rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes teachers, athletic coaches, driving instructors and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists or curriculum specialists. It also does not include cafeteria workers, maintenance workers or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is:

1. to care for a family member, or
2. for the employees own serious health condition and is foreseeable based on planned medical treatment (i.e. chemotherapy, prenatal visits, physical therapy etc.) and
3. the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend,

then the District may require the employee to choose either to:

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**Instructional Employees** (continued)

1. take the leave for a period of a particular duration, not greater than the duration of the planned treatment; or
2. transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position. However, an instructional employee cannot be transferred to an alternative position when the employee takes intermittent leave that amounts to twenty (20) percent or less of the total number of working days in the period during which the leave would extend.

Intermittent leave is not available to take care of a newborn or recently adopted child.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five 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 weeks, and
2. the employee would return to work during the three-week period before the end of the semester.

An instructional employee, required to extend his/her leave by the District, shall not have the "extra" leave counted against the employee's 12 work week entitlement unless the employee requests said additional leave be counted against the FMLA entitlement.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the 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 weeks, and
- (2) the employee would return to work during the two-week period before the end of the semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester, and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

Leave may not be counted against an employee during times (vacation periods) when they are not normally required to work.

When the employee is required to take leave until the end of the semester, only the time until the employee is "ready and able" to work shall be charged to FMLA leave.

**BLOOMFIELD PUBLIC SCHOOLS**  
**Bloomfield, Connecticut**

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**ADMINISTRATIVE REGULATION**

**No. 4152.6(o)**  
**4252.6**

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**Personal Leaves (continued)**

**Failure to Return**

The District is entitled to recover health care premiums paid during the leave if the employee fails to return from leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence, or onset of a serious health condition or due to circumstances beyond the control of the employee.

**Miscellaneous**

1. An employee's serious health condition may also be a disability within the meaning of the Americans with Disability Act (ADA) which may also trigger requests for paid leave or workers' compensation benefits. The District may follow procedures for requesting medical information under the ADA or paid leave or worker's compensation programs without violating the FMLA. The District may also consider any information received pursuant to such procedures or benefit programs in determining an employee's entitlement to FMLA-protected leave.
2. When employees seek leave due to an FMLA-qualifying reason for which the District has previously provided FMLA protected leave, the employee must specifically reference the qualifying reason for leave or the need for FMLA leave.
3. The District requires employees to comply with all usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. The requirements include providing written notice of the reasons and anticipated start and duration of the leave or requirement that employees contact a specific individual of the District to request leave.
4. If there is a dispute between the District and an employee as to whether leave qualifies as FMLA leave, it shall be resolved through discussions between the District and the employee. The discussions and decisions must be documented in writing.

**BLOOMFIELD PUBLIC SCHOOLS**  
**Bloomfield, Connecticut**

**Request for Leave Under the  
Family and Medical Leave Act of 1993, as amended**

**Employee Name:** \_\_\_\_\_ **Date of Request:** \_\_\_\_\_  
**School/Department:** \_\_\_\_\_ **Position/Title:** \_\_\_\_\_  
**Hire Date:** \_\_\_\_\_ **Date of Request:** \_\_\_\_\_

(An employee wishing to request leave may make such request by filling out the information contained in this box at the top of this form. Use of this form by the employee is not mandatory.)

Employee requesting FMLA leave: \_\_\_\_\_

*(Employee's name)*

Please be advised that as of \_\_\_\_\_, I give you notice of my need to take  
*(today's date)*

family/medical leave due to:

- ☐ Birth of a child, or the placement of a child for adoption or foster care.
- ☐ Serious health condition for which I need care and makes it unable for me to perform the functions of my position.
- ☐ Serious health condition affecting my ☐ spouse\*, ☐ child, ☐ parent, for which I am needed to provide care.
- ☐ "Qualifying exigency" arising from my ☐ spouse\*, ☐ child, ☐ parent, being on active duty or ordered to active duty in the Armed Forces.
- ☐ Need to care for a wounded service member or a honorably discharged veteran affecting ☐ spouse\*, ☐ child, ☐ parent, ☐ myself or ☐ next-of-kin.

If the duration of my family/medical leave does not exceed twelve (12) weeks (26 weeks if leave is to care for an injured or ill service member) I will be returned to my same or equivalent position. I understand that if my family/medical leave should exceed twelve weeks (26 weeks if leave is to care for an injured or ill service member, I will be returned to my same or similar position, only if available in accordance with applicable laws. If the same or similar position is not available, I understand that I may be terminated.

I need this leave beginning on \_\_\_\_\_, and I expect the leave to continue until on  
*(Date)*  
or about \_\_\_\_\_.  
*(Date)*

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\*The term spouse includes partners in a same-sex marriage.



**BLOOMFIELD PUBLIC SCHOOLS**  
**Bloomfield, Connecticut**

**Response to Request for Leave Under the  
Family and Medical Leave Act of 1993, as amended**

To: \_\_\_\_\_ From: \_\_\_\_\_  
(Employee's Name) (Name of appropriate Employer representative)

On \_\_\_\_\_, you notified us of your need to take family/medical leave due to:  
(Date)

- ☐ The birth of a child, or the placement of a child for adoption or foster care.
- ☐ A serious health condition for which you need care that makes you unable to perform the functions of your position.
- ☐ A serious health condition affecting your ☐ spouse\*, ☐ child, ☐ parent, for which you are needed to provide care.
- ☐ A "qualifying exigency" arising from my ☐ spouse\*, ☐ child, ☐ parent, being on active duty or ordered to active duty in the Armed Forces, or
- ☐ The need to care for a wounded service member or an honorably discharged veteran affecting ☐ spouse\*, ☐ child, ☐ parent, ☐ myself or ☐ next-of-kin.

You notified us that you need this leave beginning on \_\_\_\_\_, and that you expect the leave to continue until on or about \_\_\_\_\_.  
(Date)

(\*This response should be used in all cases, even if notice has only been given verbally.)

Except as explained below, you have a right under the FMLA to receive up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above (except leave for care of a covered service member is up to twenty-six weeks in a single 12 month period). Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (check appropriate boxes; explain where indicated)

1. You are ☐ *eligible* ☐ *not eligible* for leave under the FMLA or Service Member FMLA.
2. The requested leave ☐ *will* ☐ *will not* be counted against your annual FMLA leave entitlement.

\*The term spouse includes partners in a same-sex marriage.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by \_\_\_\_\_ (*must be at least 15 days after you are notified of this requirement*) or we may delay the commencement of your leave until the certification is submitted.
4. You may elect to substitute accrued paid/unpaid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid/unpaid leave for unpaid FMLA leave. If accrued leave will be used, the following conditions will apply: (*Explain which leave will be substituted, and any other relevant conditions.*) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments by the last business day of the month for coverage for the following month. You have a thirty (30) day grace period in which to make payment. If payment has not been made in a timely fashion, your group health insurance may be cancelled, or at our option, we may pay your share of the premium during FMLA leave and receive these payments from you upon your return to work.
6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until such certification is provided.
7. You ☐ will ☐ will not be required to furnish us with periodic reports of your status and intent to return to work every 30 days while on FMLA leave.
8. You ☐ will ☐ will not be required to furnish recertification every 30 days relating to a serious health condition. (*Explain below, if necessary.*)
- 9a. You ☐ are ☐ are not an “instructional employee” as described in §825.600 of the FMLA regulations.
- 9b. We have determined that your leave request ☐ will ☐ will not be modified, as permitted by law regarding an instructional employee. If modified, the following conditions or alternatives apply:
- 10a. You ☐ are ☐ are not a “key employee” as described in §825.218 of the FMLA regulations. If you are a “key employee”, restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.
- 10b. We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous harm to us. (*Explain (a) and/or (b) below.*)\_\_\_\_\_.

# **EMPLOYEE RIGHTS AND RESPONSIBILITIES**

## **UNDER THE FAMILY AND**

### **MEDICAL LEAVE ACT**

**Revised October 2014**

#### **Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

#### **Military Family Leave Entitlements**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

#### **Benefits and Protections**

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

#### **Eligibility Requirements**

Employees are eligible for federal FMLA benefits if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Paraprofessionals, as defined in state statute, are eligible if they have worked for a covered employer for at least one year, for 950 hours over the previous 12 months.

# **EMPLOYEE RIGHTS AND RESPONSIBILITIES** **UNDER THE FAMILY AND MEDICAL LEAVE ACT**

(continued)

## **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## **Substitution of Paid Leave for Unpaid Leave**

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## **Employer Responsibilities**

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

# **EMPLOYEE RIGHTS AND RESPONSIBILITIES** **UNDER THE FAMILY AND MEDICAL LEAVE ACT**

(continued)

## **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## **Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.**

For additional information:

1-866-4US-WAGE (1-800-487-9243) TTY: 1-877-889-5627

[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor Wage and Hour Division

WHD Publication 1420 – Revised February 2013

*October 2014*

# NOTICE

## Military Family Leave

*On January 28, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service:*

- (1) **New Qualifying Reason for Leave.** Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining “any qualifying exigency.” In the interim, employers are encouraged to provide this type of leave to qualifying employees.
- (2) **New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated is available on the FMLA amendments Web site at [http://www.dol.gov/esa/whd/fmla/NDAA\\_fmla.htm](http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm).

