

SECTION: PROFESSIONAL  
EMPLOYEES

TITLE: FAMILY AND MEDICAL  
LEAVE OF ABENCE POLICY

ADOPTED: May 23, 2001

REVISED:

# FAIRVIEW SCHOOL DISTRICT

## 435.1. FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

### 1. Guidelines

Pursuant to the Family and Medical Leave Act of 1993, up to twelve (12) weeks (i.e., sixty [60] work days) of unpaid leave will be granted in each twelve (12)-month period to eligible employees. To be eligible for FMLA leave an employee must have worked in the Fairview School District for at least one year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and must be absent from work because of the following situations:

1. The birth of a child or the placement of a child with the employee for adoption or foster care (to both men and women).
2. To care for a spouse, son, daughter, or parent who has a serious health condition.
3. Your own serious health condition if it makes you unable to perform the functions of your position.

The twelve (12) month period in which the twelve (12) week leave entitlement occurs will be calculated on a fiscal year basis, from July 1st to June 30<sup>th</sup>.

Leave also may be taken intermittently or on a reduced leave schedule under certain circumstances, although the employee may be asked to transfer temporarily to a different job during this type of leave period.

This policy applies to all employees of the District. Note, however, that instructional employees' requests for intermittent or reduced leave will be handled in accordance with the Special Rules which begin on page 4 of this policy.

#### Spouses Employed By The District

A husband and wife who are eligible for FMLA leave and are employed by the Fairview School District shall each be entitled to all FMLA rights.

Request For Leave

Whenever possible, a request for family and medical leave should be made to the employee's immediate supervisor as far in advance as practicable and must be approved by the Fairview School District. The employee's written request must explain the reasons for the needed leave. The employee will be given an Employer's Response to Request form which will advise him or her of the employee's rights and obligations under the FMLA. Ordinarily, a minimum of thirty (30) days notice is required. The Fairview School District shall not deny an employee's leave request solely because the requisite notice under the Act was not provided by the employee, although in cases of foreseeable leave the commencement of leave may be delayed for up to thirty (30) days.

The employee also may be required to provide a physician's certification. When the leave is foreseeable and at least thirty (30) days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employer within fifteen (15) days. Failure to provide adequate certification within fifteen (15) days may lead to disciplinary action.

Second Opinions

Where leave is for the employee's own serious health condition or the serious health condition of a family member, the Fairview School District reserves the right to require a second opinion from a health care provider designated by it. If the second opinion conflicts with the original health care provider's opinion, a third opinion may be required. Second and third opinions will be at no cost to the employee.

Use of Accrued Time

The employee may choose to use accrued paid vacation or personal days for all or part of a leave relating to birth, adoption or foster care, or care for a family member. Substitution of paid vacation, personal or sick leave also may be used for leave to care for a family member or the employee's own serious health condition. Under these circumstances, the vacation, personal, and sick time will be counted toward the twelve (12) week leave period, except where the 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 paid leave. The Fairview School District may count time away from work on workers' compensation or medical sabbatical leave toward FMLA leave.

Use Of Accrued Time – Sick Bank Days

Where the employee uses sick bank days for his or her own serious health condition, the absences will be counted toward the twelve (12) week FMLA leave period.

Benefits While On Leave

Group health insurance, dental insurance, vision insurance, and term life insurance will be maintained during the leave, if applicable. If the employee does not return at the completion of the leave s/he will be responsible for the premiums paid by the Fairview School District to maintain the coverage under the health plan, unless the reason the employee does not return is due to:

1. The continuation, reoccurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA, or
2. Other circumstances beyond the employee's control.

Seniority and benefits will accrue during the period of the leave.

Return To Work

On return from leave, the employee will be restored to the same or an equivalent position. The Fairview School District may require that the employee provide a physician's certification before s/he is permitted to return to work. A certification also may be required if the employee claims that s/he is unable to return to work.

An employee who does not return to work within one (1) working day following expiration of an approved leave (unless the employee's absence remains excused through some other form of leave), or who fails to notify the Fairview School District of the ability to return from leave, may result in the employee's dismissal in accordance with the School Code. The employee will have the right to challenge the District's action in accordance with the just cause provision of the collective bargaining agreement or applicable statute.

The Fairview School District may require an employee on leave to report periodically on the on the employee's status. An employee who fraudulently obtains family and medical leave is subject to termination.

It is the intent of this Policy to comply with the Family and Medical Leave Act of 1993. The Fairview School District intends to abide by the FMLA regulations and expects the same of its employees. Nothing in this Policy shall lessen or diminish any rights to leave that are contained in any collective bargaining agreement or guaranteed by statute, except as specifically provided herein. All definitions within this Policy shall correspond to those defined in the Act and its regulations. Questions about the FMLA regulations or this Family and Medical Leave of Absence Policy, including the special rules that apply to instructional employees, should be directed to the Controller.

#### SPECIAL RULES THAT APPLY TO INSTRUCTIONAL EMPLOYEES

##### Application

These special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by "instructional employees".

##### Definition

The regulations define **instructional employees** as those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and these special rules do not apply to, 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.

##### Taking Intermittent Leave Or Leave On A Reduced Leave Schedule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than twenty percent (20%) of the total number of working days over the period the leave would extend, the Fairview School District may require the employee to choose either to:

1. Take leave for a period or periods 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.

If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

If an instructional employee does not give required notice of foreseeable FMLA leave to be taken intermittently or on a reduced leave schedule, the Fairview School District may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the Family School District may require the employee to delay the taking of leave until the notice provision is met.

Taking Leave Near The End Of An Academic Term

Regular rules apply to taking leave except when:

1. An instructional employee begins leave more than five (5) weeks before the end of a term. The Fairview School District may require the employee to continue taking leave until the end of a term if:
  - a. The leave will last at least three (3) weeks, and
  - b. The employee would return to work during the three (3) week period before the end of the term.
2. The employee begins leave for a purpose other than the employee's own serious health condition during the five (5) week period before the end of a term. The Fairview School District may require the employee to continue taking leave until the end of the term if:
  - a. The leave will last more than two (2) weeks, and
  - b. The employee would return to work during the two (2) week period before the end of the term.
3. The employee begins leave for a purpose other than the employee's own serious health condition during the three (3) week period before the end of the term, and the leave will last more than five (5) working days. The Fairview School District may require the employee to continue taking leave until the end of the term.

In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The Fairview School District has the option not to require the employee to stay on leave until the end of the Fairview School District term. Therefore, any additional leave required by the Fairview School District is not counted as FMLA leave; however, the Fairview School District shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

Restoration To An Equivalent Position

An instructional employee will be restored to an equivalent position upon return from FMLA leave in the same manner as an employee returning from sabbatical leave.