

Family and Medical Leaves of Absence

There may be occasions in which an employee requests to be temporarily relieved of his/her work responsibilities because of the birth, adoption or placement in foster care of a child, the employee's serious health condition or the serious health condition of certain family members, to care for a covered servicemember, or for a qualifying exigency, as defined by the Department of Labor, arising out of the fact that the employee's parent, child, or spouse 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. In such instances, the District will grant leaves of absence in accordance with the requirements of the Family and Medical Leave Act of 1993 ("FMLA") and any applicable state and local laws. Specifically, eligible employees will be granted a family or medical leave of up to 12 weeks in any 12-month period, for their own serious health condition, the birth, adoption or placement in foster care of a child, the serious health condition of a spouse, child, or parent member, for a qualifying exigency, or up to 26 weeks in the event leave is taken to care for a covered servicemember, with certain assurances of job security and health insurance benefits during the leave (as described below).

Qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves.

A covered servicemember is a member of the Armed Forces, including 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, when the eligible employee is the spouse, son, daughter, parent or next of kin (*i.e.*, nearest blood relative) of the covered servicemember.

Except as explicitly set forth herein and/or as required by law, the entitlement to FMLA leave shall not extend or expand any other employee benefits provided by the District.

Provisions applicable only to members of Tredyffrin/Easttown Education Association (TEEA)

Refer to Policy 4422 for provisions applicable only to TEEA members. In case of a conflict between this Regulation and Policy 4422, Policy 4422 shall apply.

Provisions applicable to all employees

The remaining sections of this Regulation apply to all employees, including members of TEEA, unless, with respect to TEEA members, the section conflicts with the preceding section, or with the provisions of a group employment agreement or individual employment agreement in which case, the preceding section or other agreement applies.

Definition

A “serious health condition” is an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility, or continuing treatment by a doctor or other health care provider. Where the condition involves the employee, the term means a condition that makes the employee unable to perform the functions of their position. Where the condition involves a spouse, child, or parent, the term means a condition that requires the employee to be absent from work for the care of such family member.

For leave to care for a covered servicemember, a serious injury or illness is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of their office, grade, rank, or rating.

Eligibility

In order to be eligible for FMLA leave, an employee must be employed at least 12 months and for at least 1,250 hours during the 12 months immediately preceding the commencement of leave.

Except for leave to care for a covered servicemember, the leave year shall begin on July 1st. This means that the District will grant a leave allotment of up to 12 weeks for eligible employees based on a 12-month period beginning on July 1st of each year and ending on June 30th of the following year. Leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later.

Procedure

Generally, leave under the FMLA will be taken in a lump sum (*i.e.*, consecutive days off from work up to 12 weeks). However, family or medical leave may be taken intermittently, or on a reduced schedule, in situations involving a serious health condition of the employee or their spouse, parent or child, or to care for a covered servicemember. Additionally, employees may take intermittent or reduced schedule leave in connection with any qualifying exigency, as defined above. If an employee requests an intermittent or reduced leave schedule for reasons that are foreseeable based upon planned medical treatment, the District may, at its discretion, temporarily reassign the employee to another position that will better meet the needs of the District and the employee.

The request for FMLA leave shall be made thirty (30) days in advance when the need for leave is foreseeable, using the form in **Attachment A**. If it is not practicable under the circumstances to provide such advance notice, notice shall be given as soon as practicable (within one or two working days after the need for leave is discovered).

The District shall consider an employee’s absence FMLA-qualifying and designate it as such if they are absent from work due to a health condition, verified by documentation from the employee’s treating physician, for a period of greater than five (5) days or, in the case of TEEA members, greater than nine (9) days. Employees who believe that such

an absence should not be designated as FMLA leave will be provided an opportunity to provide information demonstrating that such leave does not qualify as FMLA leave.

While an employee is on family or medical leave, the District will maintain its contributions to the employee's health insurance under the same terms as the plan in effect at the time the request is made, for a period of up to 12 weeks, or for up to 26 weeks if the leave is to care for a covered servicemember, if the employee is enrolled in the District's health care plan at the time the request is made. Vacation and sick leave days do not accrue during any period of unpaid leave.

Except as provided by law, upon the employee's return to work, the District will restore the employee to the same or an equivalent position with equivalent pay and benefits. If the employee fails to return from family or medical leave, the employee will be required to repay the District its share of health insurance premiums paid for the employee during the leave, provided that the failure to return to work is not due to the condition, recurrence or onset of a serious health condition, or other circumstances beyond the employee's control (as explained in the regulations to the FMLA).

In the case of employee illness, all accrued sick leave days must be used concurrently with the employee's medical leave. In other words, an eligible employee is entitled to a combined total of 12 weeks' leave, regardless of whether any portion of that leave constitutes paid vacation or sick leave. If the purpose of the leave is for any other reason than employee illness, the leave will be without pay unless the employee wishes to apply available accrued personal or vacation leave. Any request to apply such available leave must be in writing to the Director of Personnel.

In the case of maternity leave, the leave shall be considered medical leave for the time that the employee is under the care of a physician and the employee will be required to use accrued sick days for such leave. The remainder of the child rearing leave shall be unpaid unless the employee wishes to apply available accrued personal or vacation leave and submits a written request to apply such available leave to the Director of Personnel. Spouses who are employed by the District are jointly entitled to only a combined total of 12 weeks of FMLA leave for the birth of a child, placement of a child for adoption or foster care, and for the care of a parent who has a serious health condition, or 26 weeks in the event that the leave is to care for a covered servicemember.

Special Rules Applicable to Instructional Employees

"Instructional employees," as this term is defined in the FMLA, are those employees whose principal function is to teach and instruct students in a class a small group, or an individual setting. The following provisions are applicable to instructional employees only:

- a. *Intermittent leave or leave on a reduced 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, or to care for a covered servicemember, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the District may require the employee to elect either: (a) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or (b) to transfer temporarily to an available alternative position offered by the District, for which the employee is qualified and that has equivalent pay and benefits.
- b. *Taking leave near the end of the academic term.*
 - (1) If 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 (i) the leave will last at least three weeks, and (ii) the employee would return to work during the three-week period before the end of the semester.
 - (2) If 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 a semester, the District may require the employee to continue taking leave until the end of the semester if (i) the leave will last more than two weeks, and (ii) the employee would return to work during the two-week period before the end of the semester.
 - (3) If 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 required the employee to continue taking leave until the end of the semester.
 - (4) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

Medical Certification

Medical certification of the need for the leave is required when the leave is due to a serious health condition of the employee or family member. The District may require a second and, if necessary, a third opinion at the District’s expense. The District may also require subsequent recertification on a reasonable basis. 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 unable to perform the essential functions of the employee's job.

District Review

The District shall notify the employee within five (5) business days of the employee's request as to whether or not the leave will be protected under the FMLA.

If the employee is eligible, the District shall notify the employee of the following:

1. The employee's rights and responsibilities.
2. The amount of leave that will be counted against the employee's leave entitlement.
3. Whether or not the employee will have to submit a fitness-for-duty certification before returning to work.

If the employee is not eligible for FMLA leave, the District will provide a reason for the ineligibility.

Attachment A

Tredyffrin/Easttown School District

Family/Medical Leave Request

Pursuant to the Family and Medical Leave act of 1993 (the "FMLA") and District policy, requests for Family or Medical Leave (hereinafter "FMLA leave") must be made, if possible, at least 30 days prior to the date the requested leave is to begin. After you complete Part 1, please return this form to the Personnel Office.

Part 1 (employee to complete)

Date: _____

Name _____ Title/Position _____

Location/Department _____ Reports to _____

Hire Date _____ Length of Service (years) _____ Status Full Time Part Time**I request a family or medical leave for one or more of the following reasons:**

- Because of the birth of my child and in order to care for him or her.** Attach physician's medical certification. This leave will be used in conjunction with District sponsored Child Rearing Leave if applicable to your classification. Your leave approval may be delayed if certification is not attached. You are required to use your accrued paid sick leave while you are under medical supervision. Thereafter, you may elect to use your accrued paid vacation and /or personal leave during this absence.

Expected date of birth _____ Actual date of birth (if applicable) _____

First Day of Leave _____ Expected return date _____

- Because of the placement of a child with me for adoption or foster care.** Attach court documentation This leave will be used in conjunction with District sponsored Child Rearing Leave if applicable to your classification. Your leave approval may be delayed if certification is not attached. You may elect to use your accrued paid vacation and/or personal leave during this absence.

Date of placement _____

First Day of Leave _____ Expected return date _____

- In order to care for my spouse, child, or parent, who has a serious health condition.** Attach physician's medical certification of a serious health condition. Your leave approval may be delayed if certification is not attached. You may elect to use your accrued paid vacation and/or personal leave during this absence.

First Day of Leave _____ Expected return date _____

- For a serious health condition that makes me unable to perform my job.** Attach physician's medical certification of a serious health condition. Your leave approval may be delayed if certification is not attached. You are required to use your accrued paid sick leave while you are under medical supervision.

First Day of Leave _____ Expected return date _____

Under certain circumstances, FMLA leave may be taken intermittently or on a reduced leave schedule. If you believe that such a schedule may be applicable to your situation, (a) state your proposed leave schedule and (b) explain why your condition or situation necessitates such a leave schedule. An intermittent or reduced leave schedule may be subject to the District's approval.

You will be required to furnish medical recertification, as applicable, for you, your spouse, child, or parent every thirty (30) days until physician's medical certification of release is received in the Personnel Office.

Please turn to reverse side.

I understand and agree to the following:

- I have the right under the Family and Medical Leave Act for up to 12 weeks of unpaid leave in a District established 12-month period for any of the reasons listed on the reverse side of this form under Part 1.
- Health care benefits will be maintained during this leave under the same conditions as if I continued to work.
- Leave banks will be adjusted to reflect only earned leave time accrued.
- I must be reinstated to the same or equivalent job with the same pay, benefits, and terms and conditions of employment on return from this leave*.
- If I do not return to work following this leave for a reason other than (1) the continuation, recurrence, or onset of a serious health condition which would entitle me to a Family Medical Leave; or (2) other circumstances beyond my control, I may be required to reimburse District share of health insurance premiums paid on my behalf during my Family Medical Leave.
- I must use accrued paid sick leave while under medical supervision during this leave.
- I may elect to use accrued paid vacation and/or personal during this leave.
- While on leave, every thirty (30) days, " will be required to furnish the District with either (a) medical recertification relating to a serious health condition if on FMLA leave for my own medical condition or the condition of a spouse, child or parent, which reflects my ability and intention to return to work; or (b) a status report if on FMLA leave for the birth or placement of a child, which reflects my intention with respect to returning to work.
- I will be required to present a fitness-for-duty certificate prior to being restored to employment if leave is taken for medical reasons that makes me unable to perform my job.
- This leave may be unpaid, unless specified differently under Part 1.
- In order to be eligible for FMLA leave, I understand that I must be employed by the Tredyffrin/Easttown School District for at least 12 months and during the previous 12 months, I have worked at least 1,250 hours.
- After 12 weeks of FMLA leave, if I do not return to work or contact my building principal/supervisor or the Personnel Office on or before my expected date of return, the Tredyffrin/Easttown School District will assume that I have abandoned my position.
- All approved Family Medical Leaves may also apply concurrently with other leave entitlements.

***See Administrative Regulations No. 4220-4422 for additional information regarding eligibility for and duration of FMLA leave, including applicable limitations to leave taken near the end of the academic terms as well as an explanation as to what constitutes restoration to an "equivalent job." To the extent that there is any conflict between the terms herein and the Regulation, the terms of the Regulation shall prevail.**

Request Payment Option (please specify):

If adding a child to your District medical insurance, you must notify Marie Livelsberger in writing at livelsbergm@tesd.net within thirty (30) days of the date of birth or placement of adopted/fostered child.

Employee Signature _____ Date _____

Special Instructions: We will need a note from your physician prior to your return to work. If you have work restrictions, we will need to meet to discuss them prior to your return.

Part 2 — Leave Status (employer to complete)

- Leave approved
- Leave not approved: _____

Anticipated return date: _____

Intermittent or Reduced Leave Instructions, if applicable:

Director of Personnel/Designee Signature: _____ Date: _____