

*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; it does not extend to family members of military members in the Regular Armed Forces.

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 his or her 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 his or her 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 1. 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 1<sup>st</sup> of each year and ending on June 30<sup>th</sup> 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 his or her 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. 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 he or she is 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 require the employee to continue taking leave until the end of the semester.

### 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.

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