

# EAST STROUDSBURG AREA SCHOOL DISTRICT

SECTION: EMPLOYEES  
 TITLE: FAMILY AND MEDICAL LEAVES  
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335. FAMILY AND MEDICAL LEAVES	
1. Purpose 29 U.S.C.A. Sec. 2601 et seq	The purpose of this policy is to address specific leave of absence issues and to ensure the school district's compliance with the Family Medical Leave Act of 1993, hereinafter referred to as FMLA.
2. Delegation of Responsibility	The Superintendent or designee shall develop any administrative guidelines required for regulating FMLA leaves and ensuring the school district's compliance with FMLA. All such guidelines must adhere to the basic principles of the law.
3. Eligibility	<p>Eligibility for an FMLA leave shall be based entirely on the eligibility criteria established by the FMLA. This policy shall not be construed to expand eligibility for an FMLA leave beyond what is required by the law.</p> <p>This policy shall be applicable to employees who have been employed by the school district for at least twelve (12) months and have worked at least 1,250 hours with the school district during the previous twelve (12) month period.</p> <p><u>Leave Entitlement</u></p> <p>The school district will grant employees up to a total of twelve (12) workweeks of FMLA leave during any twelve (12) month period for the following reasons:</p> <ol style="list-style-type: none"> <li>1. For the birth and care of a newborn child of the employee.</li> <li>2. For the placement and care with the employee of a child for adoption or foster care.</li> <li>3. To care for a spouse, child or parent (but not a "parent-in-law") with a serious health condition.</li> <li>4. To take medical leave for a serious health condition which makes the employee unable to perform the functions of his/her position.</li> </ol> <p>FMLA leave for the birth and care of a newborn child or for a newly placed child must conclude within twelve (12) months of the birth or placement.</p>

	<p>Such provisions shall be governed by consideration for the health of the employee, as well as, the need for continuity in school district operations and the maintenance of a qualified school district staff.</p> <p>When both spouses are employed by the school district, the combined amount of FMLA leave for the birth and care of an employee’s child, for the placement with the employee of a child for adoption or foster care and care of the newly placed child, or for the care of an immediate family member (spouse or child) with a serious health condition, may be limited to twelve (12) weeks of combined leave.</p>
<p>4. Definitions</p>	<p><b>Serious Health Condition</b> is defined as an illness, injury, impairment or mental condition involving either in-patient care or continuing treatment by a health care provider for a chronic or long-term condition.</p> <p><b>Health Care Providers</b> include doctors of medicine, osteopathy or any other person determined by the Secretary of Labor to be capable of providing health care services.</p> <p><b>Employment Benefits</b> include all fringe benefits provided or made available by the school district, including group life insurance, health insurance and sick leave.</p> <p><b>Parent</b> means the biological parent or an individual who stood in loco parentis to an employee when the employee was a child.</p> <p><b>Child</b> means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis who is under eighteen (18) years of age or eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.</p> <p><b>Spouse</b> means husband or wife.</p> <p><b>Twelve (12) Month Period</b> means a rolling twelve (12) month period measured backwards from the date leave is first used.</p> <p><b>Return to Service</b> means that the employee is able to return to active employment and shall be returned to the same or an equivalent position with equivalent employee benefits and compensation and other conditions of employment.</p> <p><b>Equivalent</b> means substantially the same, but not exactly equal.</p>
<p>5. Guidelines 29 U.S.C. Sec 2612</p>	<p>Eligible employees shall be provided up to twelve (12) weeks of unpaid leave in a twelve-month period, except that employees on leave to care for a covered service member shall be provided up to twenty-six (26) weeks of leave in a twelve-month period.</p>

FMLA permits a “spouse, son, daughter, parent or next of kin” to take up to twenty-six (26) weeks of unpaid leave in one (1) year to care for 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.”

FMLA provides up to twelve (12) weeks of unpaid, job-protected leave per year because of a “qualifying exigency arising from the fact that the spouse, son, daughter or parent of an employee is on active duty or has been notified of an impending call or order to active duty.” The District will require that a request for such leave be supported by certification that the service member is serving or has been called to active duty.

Required notices shall be posted by the school district.

Guidelines advising employees of their rights and responsibilities shall be developed and posted. Guidelines shall be given to employees upon request, whenever an employee requests an FMLA leave, and/or whenever the school district designates a leave as an FMLA leave.

All requests for leave, both FMLA leave and non-FMLA leave, shall be made verbally and confirmed in writing on approved school district forms thirty (30) days in advance or as soon as practicable. Those forms (Attachments A & B) shall request sufficient information to determine whether the leave qualifies as an FMLA leave. All applicable forms will be available in the Central Administration Office.

FMLA leave will run concurrently with any personal leave, sick leave, vacation and other paid leaves that the employee elects to utilize. Upon the employee’s exhaustion of all paid leave, or election not to utilize paid leave, any remaining time during FMLA leave will be unpaid.

FMLA leave will run concurrently with Worker’s Compensation leave for an employee who is out due to an occupational injury that qualifies as a serious health condition under the FMLA.

Medical certification forms shall be required whenever allowed or authorized by provisions of the FMLA.

For purposes of determining whether an eligible employee under the FMLA has exhausted the twelve (12) weeks of leave in any twelve (12) month period, the school district shall utilize a rolling twelve (12) month period, measured backwards from the date leave is first used, to avoid stacking of back-to-back leave entitlements.

Eligibility for an FMLA leave shall be based entirely on the eligibility criteria established by the FMLA. This policy shall not be construed to expand eligibility for

	<p>an FMLA leave beyond what is required by law.</p>
<p>6. Requirements</p>	<p>The school district will require medical certification to support a claim for FMLA leave for an employee’s own serious health condition or to care for a seriously ill child, spouse, or parent. For an employee’s own medical leave, the certification must include a statement that the employee is unable to perform the functions of his/her position. For FMLA leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care.</p> <p>At its discretion, the school district may require a second medical opinion and periodic re-certifications at its own expense. If the first and second opinions differ, the school district, at its own expense, may require the binding opinion of a third health care provider.</p> <p>The FMLA leave shall commence as soon as the employee has proven his/her eligibility based on the qualifying event. <del>The Board requires that the employee must use all earned sick and personal days during the twelve (12) weeks of FMLA leave. If the employee requesting an FMLA leave qualifies for and is entitled to any paid leave under a contract, compensation plan, collective bargaining agreement, school district policy, or statutory mandate, the employee may utilize such leave during the FMLA leave at his/her discretion.</del></p> <p>The employee shall make a reasonable effort to schedule the medical treatment related to FMLA leave so as not to unduly disrupt the operations of the school district, subject to the approval of the health care provider of the employee or the health care provider of the child, spouse, or parent of the employee, as appropriate. A thirty (30) day notice before the date the leave is to begin shall be provided where practicable.</p> <p>FMLA leave may be taken on an intermittent schedule, if medically necessary, for a serious health condition to the employee or his/her spouse, child, or parent. If FMLA leave is requested on this basis, however, the school district may require the employee to transfer temporarily to an alternate position which better accommodates recurring periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits, but not equivalent duties.</p> <p>Spouses who are both employed by the school district are entitled to a combined total of twelve (12) weeks of FMLA leave [rather than twelve (12) weeks each] for the birth and care of the employee’s child, for the placement with the employee of a child for adoption or foster care and care of the newly placed child, or for the care of an immediate family member (spouse or child) with a serious health condition, may be limited to twelve (12) weeks of combined leave.</p> <p>The school district will maintain the employee’s health coverage under any group health plan during the FMLA leave on the same terms as if the employee continued to</p>

	work.
7. Recovery of Costs	<p>In the event the employee fails to return to work after the FMLA leave has expired for a reason other than the continuation, recurrence or onset of a serious health condition of the employee or immediate family member, the employee shall reimburse the school district for all costs incurred with respect to the continuation of the employee’s health, vision, dental, life insurance and/or disability benefits. If the employee is unable to return to work due to the continuation, recurrence or onset of a serious health condition of the employee or immediate family member, the school district will require that the employee provide medical certification of this condition.</p> <p>In the event that an employee elects not to return to work (excluding retirement) upon completion of an approved FMLA leave, the school district may terminate their employment and recover from the employee the cost of any school district payments made to maintain the employee’s coverage during any unpaid portion of the FMLA leave, unless the failure to return to work was for reasons beyond the employee’s control. Benefit entitlements based upon length of service will be calculated as of the last paid workday prior to the start of the FMLA leave.</p>
8. Healthcare Benefits – Premium Contribution Payments	<p>The school district shall continue to pay monthly premiums during any paid portion of an approved FMLA leave with respect to the continuation of the employee’s health, vision, dental, life insurance and/or disability benefits. If an employee chooses to continue his/her healthcare benefits during any unpaid portion of an approved FMLA leave, the employee shall pay the school district their healthcare premium contribution, if applicable, as set forth in their current contract. These payments must be made on a timely basis. In the event the employee’s healthcare premium contribution is more than thirty (30) days late, the school district may terminate the employee’s healthcare benefits.</p>
9. Instructional Employees	<p>The school district may require the instructional employee to continue his/her leave to the end of the term if:</p> <ol style="list-style-type: none"> <li>1. The FMLA leave begins more than five (5) weeks before the term’s end, will last at least three (3) weeks, and the employee would return to work within three (3) weeks of the end of the term.</li> <li>2. The FMLA leave is for a purpose other than the employee’s serious health condition, begins during the five (5) week period before semester’s end, will last more than two (2) weeks, and the employee would return during the two (2) week period before the end of the term.</li> <li>3. The FMLA leave is for a purpose other than the employee’s own serious health condition, begins during the three (3) week period before the end of the term, and will last more than five (5) days.</li> </ol>

	<p>The entire period of leave taken counts as FMLA leave. However, if the annual FMLA leave entitlement of an employee who is required to take leave until the end of an academic term ends before the leave is completed, the school district will still maintain health benefits, reinstate the employee and provide other FMLA entitlements when the FMLA leave ends.</p>
<p>10. Procedure</p>	<p>Any employee requesting a FMLA leave under this policy must properly complete forms requesting a Family and Medical Leave of Absence (Attachments A and B) and submit them to the Human Resources Office.</p> <p>The forms should be submitted thirty (30) days in advance, when the need is foreseeable, before the effective date of the leave. All requests for FMLA leave shall include the following sufficient medical certification contained in a properly completed Request for Family and Medical Leave of Absence Form (Attachment B) stating:</p> <ol style="list-style-type: none"> <li>1. The date on which the serious health condition commenced.</li> <li>2. The probable duration of the condition.</li> <li>3. The appropriate medical facts within the knowledge of the health care provider regarding the condition.</li> <li>4. For purposes of FMLA leave to care for a child, spouse, or parent, the form should give an estimate of the amount of time that the employee needs to provide such care.</li> <li>5. For purposes of FMLA leave for an employee's illness, the form must state that the employee is unable to perform the functions of his/her position.</li> <li>6. In the case of certification for intermittent FMLA leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated.</li> </ol> <p>Employees shall be required to provide a fitness-for-duty certificate upon returning from an FMLA leave when the leave was taken because of the employee's own serious health condition, except where such a requirement would be in violation of a collective bargaining agreement or where the employee has taken a paid leave concurrent with the FMLA leave and school district policy and practice has not required a fitness-for-duty certificate to be provided.</p> <p>Seniority shall accrue for all purposes during FMLA leaves, and credit shall be given during FMLA leaves for accruals for other leaves.</p>
<p>11. Intermittent Leave Denial</p>	<p>The employee may not take such FMLA leave intermittently or on a reduced hours basis in connection with the birth and care, adoption or foster placement and care of a</p>

	<p>child.</p> <p>An employee will be denied intermittent FMLA leave or FMLA leave on a reduced schedule to care for an immediate family member (spouse, child, parent) with a serious health condition, or if the employee has a serious health condition when:</p> <ol style="list-style-type: none"><li>1. The employee fails to establish, through medical certification, that there is a medical need for such a FMLA leave (as distinguished from voluntary treatments and procedures).</li><li>2. The employee has failed to establish, through medical certification, that it is medically necessary for the FMLA leave to be taken intermittently on a reduced leave schedule.</li></ol>
	<p>References:</p> <p>29 U.S.C. 2601 et seq, 2611, 2612, 2619</p> <p>29 CFR Part 825, 825.00</p> <p>Pol. 813</p>