

SCHOOL DISTRICT OF ATHENS
FAMILY AND MEDICAL LEAVE
#532.41 Rule
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SCHOOL DISTRICT OF ATHENS FAMILY AND MEDICAL LEAVE

Child rearing, family illness, and employee medical leave are available to employees as specified below. The intent of this Policy is to comply with both the Wisconsin and Federal Family and Medical Leave Acts (FMLA). Should this policy conflict in any way with the applicable federal and state statutes or regulations, or the employee handbook then the statutes, regulations, or employee handbook shall control to the extent required by law.

I. General Requirements.

- A. Eligibility: Employees who have been employed by the District for one year and who have worked one thousand (1,000) hours during the preceding fifty two (52) weeks are eligible Wisconsin FMLA leave, upon request, for child rearing, family illness, or employee medical leave as provided under this policy. Employees who have worked at least 1,250 hours in the last “twelve (12) month” period are eligible for federal leave for these purposes and FMLA military leave as well. Employees are to submit written requests for such leaves.

- B. Length of Child Rearing and Family Illness and Employee Medical Leave: The federal Family/Medical Leave Law provides twelve (12) weeks of family and medical leave in a “twelve (12) month” period for any combination of childrearing leave, family illness leave, and employee medical leave. The federal FMLA law also provides FMLA military leave as noted below. For purposes of the federal law, the “twelve (12) month” period is the school year (July 1 to June 30).

Under state FMLA law, an employee is entitled to six (6) weeks of child-rearing leave, two (2) weeks of family illness leave, and two (2) weeks of employee medical leave in a calendar year.

State, federal and District leaves provided for the same purposes run concurrently; that is, if the leave qualifies as a District leave, plus federal and state leave as well, the leaves run concurrently. For example, sick leave used for an employee's medical condition may also qualify as employee medical leave under state and federal law and, as such, is also deducted from an employee's leave entitlement under state and federal laws.

C. Definitions:

- 1. Serious Health Condition - Under this policy, a “serious health condition” is considered to be a disabling physical or mental illness, injury, impairment, or condition involving any of the following:
 - a. Inpatient care in a hospital, nursing home, hospice, or residential medical facility; or
 - b. Outpatient care that requires continuing treatment or supervision by a health care provider.The federal FMLA includes a more detailed and expansive definition of a “serious health condition” which is applied upon an employee’s request for

leave. A physician is required to certify that a “serious health condition” within the meaning of law is involved.

2. Week - Generally, “week” for purposes of partial absence leave means five (5) work days of leave.
3. Leave Deductions - For each work day or work week that an employee works fewer than the regularly scheduled hours for that employee by using partial or intermittent absence leave, the specific amount taken will be deducted for purposes of computing leave taken and leave remaining.
4. “In loco parentis” - Includes employees with day-to-day responsibilities to care for and financially support a child that has no biological or legal relationship to the employee or an individual who stood “in loco parentis” to an employee when the employee was a son or daughter.

II. Child Rearing Leave.

- A. Purpose: Unpaid child rearing leave may be used within sixteen (16) weeks prior to, or within twelve (12) months following:
 1. The birth of the employee’s natural child; or
 2. The placement of a child with the employee for adoption or as a precondition to adoption under §48.90 (2) Wisconsin Statutes, but not both; or
 3. The placement of a child with the employee for 24-hour foster care that is made by or with agreement of a government agency.
- B. Length of Child Rearing Leave: In a twelve (12) month period, no employee may take more than twelve (12) weeks of federal child rearing leave. No more than twelve (12) weeks leave can be taken for the birth of any one child. If both the mother and father of a child are employed by the District, and they both desire child rearing leave, they are generally only entitled to a combined total leave of twelve (12) weeks. Child-rearing leave provided under federal law generally runs concurrently with the 6 weeks of child-rearing leave provided under state law.
- C. Substitution: An employee may substitute a maximum of six (6) weeks of accrued leave, such as vacation or sick leave, for the first six of the otherwise unpaid twelve (12) week leave period. After the first six weeks, the employee may choose, or the District may require, that accrued paid vacation or certain other leave (but not sick leave), be substituted for part or all of the remaining leave period.

For the first six weeks of leave within sixteen (16) weeks prior to or after the child-rearing event (e.g., birth of child), an employee may take child rearing leave as an intermittent or as a partial absence from employment in increments of no less than one quarter hour. An employee who does so shall schedule the intermittent or partial absence so it does not unduly disrupt the District’s operations. To comply with this requirement, an employee is to provide the District, in writing, with the employee’s

proposed schedule of intermittent or partial absences no less than two (2) weeks before the schedule of absences is to commence. The schedule must be of a sufficient definiteness that the District is able to schedule replacement employees, if necessary, to cover the absences. Partial or intermittent leave must terminate within sixteen (16) weeks following the birth, adoption, or foster placement of a child. Any remaining child-rearing leave must be taken in a single block.

- D. Scheduling Child Rearing Leave: An employee is to submit a written request for child rearing leave no less than two weeks before the leave is to commence and must schedule the leave after reasonably considering the District's needs. If the date of the birth, adoption, or foster care placement requires leave to begin sooner, the employee shall provide notice as soon as practicable.

III. Family Illness Leave.

- A. Purpose: Unpaid family illness leave may be used to care for the employee's spouse, child, parents, or spouse's parent if they have a serious health condition as defined by law.
- B. Length of Family Illness Leave: In a twelve (12) month period, no employee may take more than twelve (12) weeks of federal family illness leave for the employee's spouse, child, or parents. The federal leave generally runs concurrently with the two (2) weeks of family illness leave provided under state law in a calendar year. A maximum of two (2) weeks of family illness leave may be taken for a spouse's parent in a calendar year (i.e., January-December).
- C. Substitution: An employee may substitute a maximum of two (2) weeks of paid accrued leave, such as vacation or sick leave, for the first two weeks of the otherwise unpaid twelve (12) week leave period. After the first two weeks, the District may require that any paid vacation be substituted for part or all of the remaining leave period.

IV. Employee Medical Leave.

- A. Purpose: Unpaid medical leave may be used by an employee who has a serious health condition as defined by law which makes the employee unable to perform his or her job duties.
- B. Length of Medical Leave: No employee may take more than twelve (12) weeks of federal medical leave in a twelve (12) month period. This leave generally runs concurrently with the two (2) weeks of employee medical leave provided under state law.
- C. Substitution: An employee may choose that any paid accrued leave, such as vacation or sick leave, be substituted for part or all of the otherwise unpaid twelve (12) week leave. After the first two weeks, the District may require that any accrued leave, such as vacation, be substituted for part or all of the remaining leave.

V. Scheduling Family Illness and Employee Medical Leave.

- A. An employee may schedule family illness and employee medical leave as medically necessary.
1. If an employee intends to take leave for a planned medical treatment or supervision, the employee is to:
 - a. Give the District two (2) weeks written advance notice of the intent to take a leave and the reason for the needed leave. The notice must identify the planned dates of leave to be taken. This requirement may be waived in emergency situations.
 - b. Attempt to schedule the medical treatment or supervision so that it does not unduly disrupt the District's operations. This requirement may be met by providing the District with a proposed schedule for the leave with reasonable promptness after the employee learns of the probable necessity of the leave and, except in the event of an emergency, the schedule must be of sufficient definiteness that the District can schedule replacement employees, if necessary.
 - c. Provide the required medical certification.
 2. When medically necessary, an employee may take family illness and employee medical leave as an intermittent or as a partial absence from employment in increments of no less than one quarter hour(s). An employee who does so shall schedule the intermittent or partial absence so it does not unduly disrupt the District's operations. To comply with this requirement, an employee is to provide the District, in writing, with the employee's proposed schedule of partial absences with reasonable promptness after the employee learns of the probable necessity of such leave.

VI. FMLA Military Leave.

An employee may use the following federal FMLA military leave entitlements as part of an employee's normal total twelve (12) week federal leave entitlement:

- A. Military Caregiver Leave: Federal unpaid caregiver leave may be used for an employee to provide care to a recovering service member who is an employee's spouse, son, daughter, parent, or nearest blood relative. An eligible employee is entitled to twenty-six (26) weeks of such FMLA leave during a single 12-month period. A recovering service member is defined as a member of the Armed Forces who suffered an injury or illness while on active-duty that may render the person unable to perform the duties of the member's office, grade, rank or rating.
- B. Military Call-to-Active Duty: Federal unpaid "call-to-duty" leave may be used due to an employee's spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces. Leave may be used when a "qualifying exigency" arises out of the service member's current tour of active duty or because the service member is notified of an impending call to duty in support of a contingency operation. An eligible employee is entitled to twelve (12) weeks of such FMLA leave.

- C. Substitution: An employee may request to utilize District paid leave while utilizing FMLA military leave. Such requests will be reviewed and determined at the time of the request.

VII. Medical Certification.

If an employee requests a family illness or employee medical leave under this policy, the employee must obtain a Medical Certification Form. This form must be fully completed by the employee plus the health care provider treating the family member or employee, and returned to the District.

If the requirements for a certification are not complied with, the District may deny family illness or employee medical leave and the absence will be considered unexcused unless internal leave policies excuse the absence. The District may request a second health care provider opinion at the District's expense.

VIII. Insurance and Benefits.

While an employee is on FMLA leave:

- A. The District will maintain group health insurance coverage under the conditions that applied before the leave began. If, prior to the leave, the employee was required to participate in the premium payments, an employee on leave is required to continue with his/her share of the premiums. An employee's failure to make the required payments may result in termination of the employee's insurance coverage. The District's obligation to maintain health and dental benefits will stop if and when an employee informs the District of an intent not to return to work at the end of the leave period, if the employee fails to return to work when leave entitlement is used up, or if the employee fails to make any required payments while on leave.
- B. If the District chooses to do so, it may pay an employee's required premium payments while the employee is on leave. If the District does so and an employee does not immediately repay the District upon the employee's return to work, the District will deduct the amount of the payments from the employee's paycheck.
- C. The District has the right to collect from an employee the health insurance premiums the District paid during a period of unpaid leave if the employee does not return to work after the leave entitlement has been exhausted or expired. An employee must return to work for at least 30 calendar days in order to be considered to have "returned" to work. However, an employee's liability to repay health insurance premiums does not apply if his or her failure to return to work is due to a serious health condition or specific circumstances beyond the control of the employee.

VIX. Return From Leave.

- A. Medical Certification: An employee returning from employee medical leave may be required to obtain medical certification from the health care provider that she/he is able to resume work.
- B. Position: Subject to the conditions set forth below in paragraph C for Instructional Employees, an employee returning from family and/or medical leave can return to his

or her old position, if vacant, at the time the employee returns to work. If the position is no longer vacant, the employee may be offered an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

- C. Instructional Employees: Special rules apply to the taking of intermittent or reduced leave, or leave near the end of a school semester, by Instructional Employees. “Instructional Employees” are those employees whose principal function is to teach and instruct students in a class. 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 teacher assistants or aides whose principal job duty is not teaching or instructing. Nor does the term include cafeteria workers, maintenance workers, or bus drivers.

The following applies to instructional employees while solely on or returning from federal FMLA leave (i.e., applicable Wisconsin leave entitlement exhausted):

1. Summer Recess: 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 employee who is on FMLA leave at the end of the school year is 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.
2. Intermittent Leave: If an 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 District may require the employee to choose either to:
 - a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment. Periods of a “particular duration” means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave; or
 - b. 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.
3. Lack of Notice: If an instructional employee does not give required notice of foreseeable FMLA leave to be taken intermittently or on reduced leave schedule, the District may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the District may require the employee to delay the taking of leave until the notice provision is met.

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.

4. End of Semester Leave: The following provisions apply to an instructional employee’s leave near the end of an academic semester:
 - a. If the leave begins 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 the employee would return to work during the three-week period before the end of the semester.
 - b. If the employee begins leave for a purpose other than the employee’s own 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:
 - (1) The leave will last more than two weeks and the employee would return to work during the two-week period before the end of the semester.
 - c. If the employee begins leave for a purpose other than the employee’s own 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.

If the District requires an instructional employee to stay on leave until the end of the school semester in accord with the above provisions, the District will not count the additional leave against the employee’s FMLA leave entitlement. In addition, the District will maintain the employee’s group health insurance as if the employee were working and restore the employee to the same or equivalent job, including other benefits, at the conclusion of the leave.

The determination as to how an employee is to be restored to “an equivalent position” upon return from FMLA leave is made on the basis of established Board policies and practices, relevant provisions of collective bargaining agreements, and provisions of the federal FMLA.

- D. Upon advance notice, an employee may return to work prior to the scheduled end of his or her leave. An employee shall be returned to his or her old position or an equivalent position within a reasonable time after the request to return to work early is made.

Employees with questions in regard to FMLA leave should contact the District Administrator.