



## Personnel -- Certified/Non-Certified

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### Policy #: 4152.6/4252.6 - Personal Leaves/Family and Medical Leave Act

The Board of Education (Board) will provide leave to eligible employees consistent with the Family and Medical Leave Act of 1993 (FMLA) as amended. Eligible employees (employment for at least one year and at least 1,250 hours actually worked in the 12-month period immediately preceding the commencement of the leave) are entitled to up to 12 workweeks of unpaid family and medical leave during a “rolling” 12-month period, measured backward from the date the employee first uses any FMLA leave. The District will continue to pay the District's share of the employee's health benefits during the leave. In addition, the District will restore the employee to the same or an equivalent position with equivalent benefits, pay and other conditions of employment after the termination of the leave in accordance with Board policy and collective bargaining agreements.

Paraprofessionals are also eligible for benefits equal to those under the federal FMLA if such paraprofessional was employed by the District for at least one year and for at least 950 hours over the previous 12-month period immediately preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and who serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

Eligible employees may take FMLA leave for any one or for a combination of the following reasons:

- 1) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter. (Either parent may take leave for this reason.)
- 2) Because of the placement of a son or daughter with the employee for adoption or foster care.
- 3) To care for a spouse, child or parent with a serious health condition. (Parent/son/daughter relationships include biological, adoptive, step, foster, and *in loco parentis* relationships.)
- 4) For the serious health condition of the employee that makes the employee unable to perform the functions of the employee's position.
- 5) Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
- 6) To care for an injured or ill servicemember or veteran by the servicemember's or veteran's spouse, son, daughter, parent, or next of kin. When leave is to care for an injured or ill servicemember, an eligible employee may take up to 26 workweeks of leave during a single 12-month period to care for the servicemember. Leave to care for an injured or ill servicemember, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-



month period. This single 12-month period is based on when the employee takes leave and is measured forward.

Employees will not be deprived of any employment benefits accrued before taking FMLA leave.

The District will maintain health insurance benefits on the same basis as is provided to other similarly situated employees. Conversely, employees on FMLA leave are not entitled to accrue any seniority or benefits during the leave unless a collective bargaining agreement provides otherwise. When an employee returns from FMLA leave, benefits will be resumed in the same manner as provided prior to taking the leave, subject to any changes in benefit levels that may have occurred during the FMLA leave period and which affect the entire workforce. Leave available for eligible employees under FMLA is not intended to supplement leave otherwise provided to such employees. The District may require the eligible employee substitute any accrued vacation, personal or sick leave for any part of the 12-week period that may be taken for the serious health condition of a spouse, child or parent, or for the employee's own serious health condition. FMLA leave is unpaid unless run concurrently with paid leave, such as vacation or sick leave.

In complying with the FMLA, the District will adhere to the requirements of the Americans with Disabilities Act as well as other applicable federal and state laws.

The Board, in compliance with state statute, shall allow its employees leave time under this policy to serve as organ or bone marrow donors.

The District, in compliance with FMLA's regulations, will post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the provisions of the FMLA and providing information concerning the procedures for filing complaints of violations of the Act. Electronic posting may be utilized.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

#### Legal Reference:

P.L. 103-3 and 29 CFR Part 825 - The Family and Medical Leave Act of 1993, as amended by H.R. 4986, the National Defense Authorization Act for Fiscal Year 2008, Section 585. 29 U.S.C. §2601 et seq. and the National Defense Authorization act for Fiscal Year 2010, Public Law 111-84, section 565, Title V

Final Rule - published in Federal Register, Vol. 60, Nov. 4, Friday, January 6, 1995, as amended on February 3, 1995, March 30, 1995, and on November 17, 2008. Rules and Regulations (29 CFR Part 825).

Final Rule - published in Federal Register, Vol. 78, Wed. February 6, 2013



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Connecticut General Statutes

PA 07-245 An Act Concerning Family and Medical Leave for Municipal Employees

PA 12-43 An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees

Policy adopted: *Stratford Board of Education / June 27, 2022*



## **Personnel -- Certified/Non-Certified**

### **R4152.6/4252.6 - Personal Leaves /Family and Medical Leave Act**

The District will provide Family and Medical Leave to its eligible employees. This is a general description of FMLA rights. In the event of any conflict between the Board's FMLA policy/regulations and the applicable law, employees will be afforded all rights required by law. If you have any questions, concerns, or disputes with the FMLA policy and these regulations, please contact the District's Director of Human Resources.

#### **General Provisions**

The District will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered servicemember with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in the FMLA policy and these regulations.

#### **Eligibility**

To qualify to take family or medical leave, the employee must meet all of the following conditions:

- 1) The employee must have worked for the District for 12 months. Separate periods of employment will be counted toward the 12-month requirement, although some exceptions apply.
- 2) The employee must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. The 1,250 hours do not include time spent on leave.
- 3) The employee must work in a worksite where 50 or more employees are employed by the District within 75 miles of that office or worksite.

Paraprofessionals are also eligible to benefits equal to those under the federal FMLA if such paraprofessional was employed by the District for at least one year and for at least 950 hours over the 12-month period immediately preceding the commencement of the leave. A paraprofessional is defined as a school employee who performs duties that are instructional in nature or delivers either direct or indirect services to students and/or parents and who serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

#### **Type of Leave Covered**

FMLA leave is provided:

- 1) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter. (Either parent may take leave for this reason.)
- 2) Because of the placement of a son or daughter with the employee for adoption or foster care.
- 3) To care for a spouse, child or parent with a serious health condition. (Parent/son/daughter relationships include biological, adoptive, step, foster, and *in loco parentis* relationships.)



- 4) For the serious health condition of the employee that makes the employee unable to perform the functions of the employee's position.
- 5) Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
- 6) To care for an injured or ill servicemember or veteran by the servicemember's or veteran's spouse, son, daughter, parent, or next of kin.

### **Amount of Leave**

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under the FMLA policy and these regulations during a "rolling" 12-month period, measured backward from the date an employee uses any FMLA leave. Under the "rolling" 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the District will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If spouses both work for the District and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the spouses may only take a combined total of 12 weeks of leave. If spouses both work for the District and each wishes to take leave to care for a covered injured or ill servicemember, the spouses may only take a combined total of 26 weeks of leave.

### **Employee Status and Benefits During Leave**

While an employee is on leave, the District will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the District will require the employee to reimburse the District the amount it paid for the employee's health insurance premium during the leave period.

The employee must pay a portion of the health care premium. While on paid leave, the District will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received by the Payroll Administrator by the first day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The District will provide 15 days' notification prior to the employee's loss of coverage.



If the employee contributes to a life insurance or disability plan, the District will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the District may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the District may discontinue coverage during the leave. If the District maintains coverage, the District may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

### **Employee Status After Leave**

An employee who takes leave under the FMLA policy and these regulations for his or her own serious health condition may be asked to provide a fitness for duty clearance from the health care provider. This requirement will be included in the District's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The District may choose to exempt certain key employees from this requirement and not return them to the same or similar position, under limited circumstances.

### **Use of Paid and Unpaid Leave**

An employee who is taking FMLA leave must use all available paid vacation, personal, or other paid leave prior to being eligible for unpaid leave, to the extent permitted by law. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the District's sick leave policy. Workers' compensation leave may also be run concurrently with FMLA leave. If an employee takes paid leave pursuant to the law or a District policy for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under the FMLA policy and these regulations, the District may designate all or some portion of related leave taken as leave under the FMLA policy and these regulations, to the extent that the earlier leave meets the necessary qualifications.

### **Intermittent Leave or a Reduced Leave Schedule**

Eligible employees may take FMLA leave on an intermittent or reduced schedule basis when medically necessary due to the serious health condition of a covered family member or the employee or the serious injury or illness of a covered servicemember. Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the District's operations. In all cases, the FMLA leave may not exceed a total of 12 workweeks over the "rolling" 12-month period, measured backward from the date the employee first uses any FMLA leave (or 26 workweeks in a 12-month period to care for an injured or ill servicemember).



The District may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the District and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child. These restrictions do not apply for leave taken due to the serious health condition of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the District before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee may be required to prove that the use of the leave is medically necessary.

#### **Certification for the Employee's or Family Member's Serious Health Condition**

The District will require certification for the employee's or family member's serious health condition and the relationship between the employee and the family member. If leave is for the serious health condition of an adult child, it may be necessary to provide information to establish that the adult child is incapable of self-care due to a disability. The employee must provide the requested documentation within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. The District may directly contact the health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The District will not use the employee's direct supervisor for this contact.

The District has the right to ask for a second opinion if it has reason to doubt the certification. The District will pay for the employee to get a certification from a second health care provider, which the District will select. The District may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the District will require the opinion of a third health care provider. The District and the employee will mutually select the third health care provider, and the District will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

#### **Certification of Qualifying Exigency for Military Family Leave**

The District will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.



## **Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave**

The District will require certification for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

### **Recertification**

The District may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days unless circumstances have changed significantly, or if the District receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the District may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The District will normally seek recertification every 30 days, unless the medical certification indicates that the minimum duration of the condition is more than 30 days. If the minimum duration of the certification is for longer than 30 days, the District will wait until that minimum duration expires before requesting a recertification. The District may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

### **Procedure for Requesting FMLA Leave**

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the Director of Human Resources. Within five business days after the employee has provided this notice, the Director of Human Resources will complete and provide the employee with the Department of Labor's Notice of Eligibility and Rights & Responsibilities.

When the need for the leave is foreseeable, the employee must provide the District with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave as soon as practicable. The employee must comply with the District's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. Failure to provide proper notice may result in delayed applicability of FMLA coverage.

### **Designation of FMLA Leave**

Within five business days after the employee has submitted the appropriate certification form, the Director of Human Resources will complete and provide the employee with a written response to the employee's request for FMLA leave.

### **Intent to Return to Work From FMLA Leave**

The District may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work





### **Organ or Bone Marrow Donor Leave**

Pursuant to state law, employees who have worked for the District for at least 1,250 hours during the previous 12-month period may request leave in order to serve as an organ or bone marrow donor, provided such employee may be required, prior to the inception of such leave, to provide sufficient written certification from the physician of such employee or an advanced practice registered nurse of the proposed organ or bone marrow donation and the probable duration of the employee's recovery from such donation. Use of this leave does not authorize leave in addition to the total of 12 workweeks of leave during any 12-month period provided under the federal Family and Medical Leave Act. Employees who take organ or bone marrow leave may, in some circumstances, remain eligible.

### **Special Rules for Instructional Employees**

Instructional employees are 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 the 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.

Leave taken for a period that ends with the school year and begins the next term (defined as a semester, rather than a marking period) shall be treated as 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 will 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.

If an eligible instructional employee needs intermittent leave or leave on a reduced schedule to care for a family member with a serious health condition, to care for a covered servicemember, 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 20 percent of the total number of working days over the period the leave would extend, the District may require the employee to choose either to:

- (i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- (ii) 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 instructional employee does not give required notice of foreseeable FMLA leave to be taken intermittently or on a 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 instructional employee begins leave more than five weeks before the end of a term. The District may require the employee to continue taking leave until the end of the term 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 term.

If an instructional employee begins leave during the five-week period before the end of a term because of the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; or to care for a covered servicemember, the District may require the employee to continue taking leave until the end of the term 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 term.

If an instructional employee begins leave during the three-week period before the end of a term because of the birth of a son or daughter; the placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; or to care for a covered servicemember, the District may require the employee to continue taking leave until the end of the term if the leave will last more than five working days.

In the case of an employee who is required to take leave until the end of a 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 District has the option not to require the employee to stay on leave until the end of the school term. Any additional leave required by the District to the end of the school term is not counted as FMLA leave; however, the District shall 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.

#### Legal Reference:

P.L. 103-3 and 29 CFR Part 825 - The Family and Medical Leave Act of 1993, as amended by H.R. 4986, the National Defense Authorization Act for Fiscal Year 2008, Section 585. 29 U.S.C. §2601 et seq. and the National Defense Authorization act for Fiscal Year 2010, Public Law 111-84, section 565, Title V

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Regulation approved: