

REQUESTING FAMILY OR MEDICAL LEAVE

All schools in MSAD 11 are covered under the federal Family and Medical Leave Act (FMLA). In general, to be eligible an employee must have worked for an employer for at least 12 months, have worked at least 1,250 hours in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles.

Your Rights

The District must approve up to 12 weeks in any one-year period for the birth or adoption of a child, or for the serious health condition of the employee or an immediate family member. The one-year period begins when a family/medical leave begins. After 12 months, you may be eligible for another 12 weeks of leave. You may not take separate leaves under the federal and the state laws in order to extend the 12-week period.

The law defines a serious health condition as one involving hospitalization or other institutionalization or continuing treatment by a health care provider. The immediate family includes spouse, child (under 18, or incapable of self-care if over 18; step and foster children and other legal wards are included) or parent (including a person who has acted as a parent, such as a grandparent).

When the leave is for a serious health condition, the leave may be taken intermittently or in the form of reduced hours, if that is medically necessary. When the leave is for birth or adoption, the District does not have to approve intermittent leave or reduced hours. If you do take intermittent leave or reduced hours, you may be transferred to a different position with equivalent pay and benefits which will better accommodate the leave.

Special Rules for Schools

Congress recognized that there could be a substantial disruption to the educational process from instructional employees taking leave at certain times during the academic year or for certain intervals. As result, there are special rules in the FMLA regulations regarding "instructional employees" of public and private elementary and secondary schools. "Instructional employees" are those whose principal function is to teach and instruct students in a class, small group or individual setting. Thus, "instructional employees" includes not only teachers in the school, but also athletic coaches, driving instructors, and special education assistants, such as signers for the hearing impaired. For "instructional employees," the following rules apply:

- With regard to intermittent or reduced schedule leave (for an employee's own serious health condition, to care for a covered service member, or to care for a sick family member with a serious health condition), if the medical leave is foreseeable based on planned medical treatment and the employee is scheduled to be off work more than 20% of the working days during the period of medical leave (for an instructional employee working 5 days a week, 20% would be one day), the school may require the employee to choose:
 - to take leave of a particular duration not to exceed the duration of the planned leave (the entire period of leave is counted as FMLA leave); or
 - to temporarily transfer to another position, so long as such position has equivalent pay and benefits and is a position for which they are qualified. The position also has to better accommodate the employee's intermittent leave.

If leave is requested near the end of the term, the following rules apply regarding job restoration:

- Leave within last three weeks of the end of the Academic Term for a purpose other than the instructional employee's own serious health condition. School may require continuous leave until the end of the term if:
 - Period of leave lasts more than five working days.
- Leave within last five weeks of the Academic Term for a purpose other than the instructional employee's own serious health condition School may require continuous leave until the end of the term if:
 - Period of leave is longer than two weeks; and
 - Return to work would occur within two weeks of the end of the Academic Term.
- Leave more than five weeks prior to the end of the Academic Term School may require continuous leave until the end of the term if:
 - Period of leave is at least three weeks;
 - Return to work would occur during the last three weeks of the Academic Term.

In these cases, only the period of leave taken until the employee is ready to return to work may be charged against the instructional employee's twelve weeks (not the additional time the school requires the employee to not work).

Birth or Adoption

Leaves due to birth or adoption must be during the first 12 months following the event. Placement of a foster child is treated like adoption.

If available, accrued sick leave must be used concurrently with family/medical leave. At the end of the leave, you must be allowed to return to your former job or to an equivalent position. The entire leave, including any paid leave as well as unpaid leave, is considered family/medical leave and is counted toward the 12 weeks per year.

During an approved family/medical leave, you continue in the group health plan on the same terms as similar employees who are on active status. Health coverage during any unpaid leave that extends beyond the 12 weeks is at the employee's expense, i.e. the employee is responsible for 100% of the cost of the monthly health insurance premium. Only health coverage is provided during a family/medical leave; all other benefits are covered by District policies regarding leave without pay.

If both you and your spouse work for the District, the two of you together are entitled by federal law to up to 12 weeks of leave for the birth or adoption of a child.

Your Responsibilities

When a leave can be foreseen or planned (as in the case of childbirth or scheduled surgery), employees must complete the Request for Family Medical Form and must provide at least 30 days notice. The District may delay the leave if such notice is not given. In medical emergencies the 30-day notice is not required, but an employee should request the leave as early as possible. The law requires employees to make a reasonable effort to schedule leave so as not to unduly disrupt District operations.

Employees may be required to provide evidence of birth, adoption, or foster care placement. The District may also require employees to provide certification of the medical necessity of the FMLA leave and may require (and will pay for) a second opinion. A form for certification is available from the Human Resources office. Completed certification forms are treated as confidential, medical records.

You will also be asked to provide medical certification that you are able to return to work when a leave for your own medical condition lasts 5 work days or more, or when there is any objective reason to believe you cannot safely perform the essential functions of your job.

A Request for Family or Medical Leave Form is available at the Superintendent's Office and can be downloaded from the District's First Class Human Resources Conference Folder. You must complete the form if you wish to take unpaid or paid leave for a reason covered by the law. The District may designate a leave as Family or Medical Leave whether or not you specifically request a leave under the law, so long as the leave is for reasons covered by the law.

Any leave beyond 12 weeks in a one-year period is at the District's discretion.