

## **FAMILY AND MEDICAL LEAVE ACT**

**Eligibility:** All employees who have been employed for at least one year and completed at least 1,250 hours of service during the twelve month period immediately preceding the commencement of leave are eligible for leave pursuant to the Family and Medical Leave Act. (FMLA).

(a) The Family and Medical Leave Act of 1993 (FMLA or Act) allows “eligible” employees of a covered employer to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (see Sec. 825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employer may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employer has a right to 30 days advance notice from the employee where practicable. In addition, the employer may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave or a denial of the leave altogether. Pursuant to a uniformly applied policy, the employer may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (see Sec. 825.311(c)). The employer may delay restoring the employee to employment without such certificate relating to the health condition, which caused the employee's absence. FMLA leave shall run concurrently with any other contractual or statutory leave.

LEG REF: 29 CFR 825.100 - What is the Family and Medical Leave Act?

*Adoption: November 2005*

*First reading 2013 revision: September 9, 2013*

*Second reading: October 7, 2013*

*Adoption: October 21, 2013*

*Proposed reconsideration: October 2018*

***Hull Public Schools***