

It is the policy of the Union Public School District to comply fully with the requirements of the Family and Medical Leave Act of 1993 (the “Act”) and related amendment(s). This Act requires that a covered employer provide up to 12 weeks of unpaid leave to eligible employees (or up to 26 weeks for E below). Eligible employees are those employees who: (1) have been employed for at least one year by the district, and (2) have worked at least 1,250 hours during the previous 12-month period, and (3) have requested leave for a reason covered by the Act.

## **REASONS FOR LEAVE**

All eligible employees who meet the Act’s requirements may be granted a total of 12 weeks of FMLA leave for the reasons stated below (or 26 weeks for E below). Any paid leave the employee may qualify for (sick leave, personal leave and/or vacation leave) will run concurrently with and be counted a part of the total of 12 weeks (or 26 weeks for E below) of FMLA leave granted during a 12-month period. The 12-month period is measured by looking back over the prior 12 months from the date at which the FMLA leave is to commence. This is known as the “rolling year look-back leave” basis. FMLA leave may be granted for the following reasons:

- A. For the birth of a child and to care for such child, or for placement for adoption or foster care of a child.
- B. To care for a spouse, child or parent with a serious health condition.
- C. For a serious health condition of the employee that makes the employee unable to perform his/her job functions.
- D. For a qualifying exigency arising out of the fact that employee’s spouse, son, daughter or parent is on active duty or has been notified of an impending call to active duty status, in support of a contingency operation.
- E. For the care of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty by an employee who is the spouse, son, daughter, parent or next of kin of the covered service member.

The term “serious health condition” means one which requires either in-patient care or continuing treatment by a health care provider. Continuing treatment, for purpose of the Act, may be as simple as prescription medication. FMLA leave is intended to cover conditions or illnesses affecting health to the extent that in-patient care is required or absences that are necessary on a recurring basis or for more than three days.

## **AVAILABILITY OF LEAVE**

In determining the availability of leave, the district will consider the leave available to a person (whether paid or unpaid) by virtue of existing employment conditions. The intent of the district is to ensure that each individual covered by the Act shall have the leave benefits available as a result of the law’s requirements. It is not the intent of the district or this policy to provide leave benefits that exceed those authorized by rule, policy or existing law as supplemented by the Act. It is the policy of the district that an eligible employee must use any accrued paid vacation leave, personal leave and sick leave for any part of the 12-week period and that all paid leave will be used first.

An employee requesting leave for one of the reasons authorized by the Act will be entitled to the leave available by virtue of existing leave policies. In the event the application of these policies results in less leave than is required by the Act, an eligible individual will be entitled to such additional leave as is necessary to result in the minimum leave specified in the Act for covered individuals.

Where the employee’s spouse is also employed by the district, the total number of work weeks of FMLA leave to which both spouses are entitled is limited to 12 work weeks during a year if such leave is for the birth of a child or to care for a child, or for placement for adoption or foster care of a child.

## **DESIGNATION OF FMLA LEAVE**

The Act requires the employer to designate whether an employee’s absence qualifies for FMLA leave. When a staff member at the district’s benefits office learns of an absence of an employee greater than three (3) days (which is related to one of the areas for which FMLA leave may be granted), the district will send out FMLA notification paperwork to the employee, whether or not the employee has requested FMLA leave. Although the employee may request FMLA leave via a leave request form, the district benefits office will determine whether or not the employee qualifies for FMLA leave based on the law.

The designation of leave as FMLA-qualifying leave is the responsibility of the district, regardless of whether or not the employee has requested FMLA leave. Even in cases where the employee may not agree that his/her absence should be designated as FMLA leave, the district benefits office will make the determination based on the medical

documentation received from the health care provider of the person for whom the leave has been taken (employee, spouse, child or parent) or upon documentation of an adoption or foster care placement.

District departments and sites shall designate an employee within the department or at the site who is responsible for forwarding to the district's benefits office, any and all information regarding employees in that department or at that site who may be absent for more than three days for reasons of personal or family illness or for birth or adoption, so that the district's benefits office can determine whether leave should be designated as FMLA leave.

## **APPLICATION FOR LEAVE**

An employee requesting leave must complete an Application for Family or Medical Leave. The application must state the reason for the leave, the duration of the leave (if known) and the starting and ending dates of the leave. An application can be obtained from the Human Resources Department.

The application for leave must be submitted at least 30 days before family, foreseeable military exigency, or medical leave for an expected birth or placement of a child, or when a planned medical treatment is to begin. If, for reasons beyond the employee's reasonable control, the leave is to begin in less than 30 days, an employee must give notice to his/her immediate supervisor and to the Human Resources Department as soon as is practicable, ordinarily within one or two school days of when the employee learns of the need for leave.

## **LEAVE BASED ON A SERIOUS HEALTH CONDITION**

A Medical Certification Statement must accompany an application for leave based on the serious health condition of the employee or the employee's spouse, child or parent or for the purpose of caring for a covered, injured service member. This statement must be completed by the applicable health care provider. It must state the date on which the health condition began, the estimated duration of the condition and the relevant medical facts related to the condition. This medical statement must be submitted to the district's benefits office.

If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his/her position. Likewise, when the employee is prepared to return to work, he/she must provide certification by the health care provider that the employee is able to resume work. The district reserves the right to require the employee to obtain a second medical opinion at the district's expense. If the opinions of the first and second health care provider differ, the district may require a third opinion from a health care provider mutually agreed upon by the district and the employee. The third opinion shall be final and binding.

The district may require subsequent certifications to support FMLA leave but not more often than every 30 days unless: (1) the employee requests an extension of leave, (2) changed circumstances occur regarding the illness, or (3) the district receives information that casts doubt on the validity of an existing certification.

In the event the employee is applying for leave to care for a spouse, child or parent or for the purpose of caring for a covered, injured service member, the certification must state that fact along with an estimate of the amount of time the employee will need.

Any employee who fails to provide certification(s) as requested and required by the district under this policy will be subject to disciplinary action up to and including termination subject to applicable procedural and due process requirements.

## **LEAVE BASED ON A MILITARY EXIGENCY**

An employee requesting leave based on a qualifying military-related exigency must provide appropriate military documentation verifying the qualifying military exigency.

## **INTERMITTENT LEAVE OR LEAVE ON A REDUCED-LEAVE SCHEDULE**

An employee may request to use available leave intermittently or on a reduced-leave schedule. Where leave is requested in connection with a serious health condition of the employee or his/her immediate family member, the request for leave must be supported with a certification from the health care provider that such leave is medically necessary and stating the expected duration and schedule of such leave. There must be a medical need for the leave and evidence that the medical need can best be accommodated through an intermittent or reduced-leave schedule. Any eligible employee seeking leave on an intermittent or reduced-leave basis must obtain and complete a request for leave and must submit the medical certification required.

Intermittent or reduced leave may also be taken in connection with the birth or because of the placement for adoption or foster care of a child. However, intermittent leave or leave on a reduced-leave schedule for this purpose may only be taken with the approval of the district.

In either instance, whether because such leave is medically necessary or in connection with the birth or placement of a child, the employee must try to schedule the leave so as not to unduly disrupt the district's operations. In the event the employee takes intermittent leave or reduced leave, the district reserves the right to place the employee in an alternative position which better accommodates intermittent or reduced leave.

When an instructional employee requests intermittent or reduced leave for planned medical treatment for more than 20 percent of the total number of working days in the period during which the leave would be used, the district may require the employee to elect either to (1) take leave for a "particular duration" or time which is not greater than the duration of the planned treatment, or (2) be transferred to an alternative position. If the instructional employee requesting intermittent leave or leave on a reduced-leave schedule does not give proper notice as required, the district may deny taking of leave until 30 days after notice was provided, or may require the employee either to take leave for a "particular duration" or accept an alternative position.

## **LEAVE TAKEN NEAR THE END OF AN ACADEMIC TERM**

If an instructional employee begins any type of covered leave more than five weeks before the end of a term, and if the leave will last at least three weeks and the employee would otherwise return to work during the three weeks before the end of the term, the district may require the employee to continue taking leave until the end of the term.

If an instructional employee takes leave which commences during the five weeks before the end of the term for a reason other than the employee's own serious health condition, and if the leave will last more than two weeks and the employee would otherwise return to work during the last two weeks of the term, the district may require the employee to continue taking leave until the end of the term.

If an instructional employee takes leave which begins during the last three weeks of the term for a reason other than the employee's own serious health condition, and if the leave will last more than five working days, the district may require the employee to take leave until the end of the term.

For the purpose of this policy, the word "term" means the first term or fall semester of each academic year and the second term or spring semester of each academic year.

## **THE EFFECT OF LEAVE ON BENEFITS**

During a period of family, medical or military family leave, an employee will be retained on the district's medical insurance plan under the same conditions that applied before leave began. In order to continue medical insurance coverage, the employee must continue to make any contributions that he/she made to the plan before leave. Failure of the employee to pay his/her share of the medical insurance premium may result in a loss of coverage. The employee is required to pay all of the premiums for any other type of insurance coverage which may exist.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the district for payment of health insurance premiums during the family or medical leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his/her job or due to circumstances beyond the employee's control.

The employee may not accrue any seniority, stipends or employment benefits that would have accrued if not for the taking of leave. However, the employee who takes family, medical or military family leave will not lose any seniority or employment benefits that accrued before the date leave began.

## **REINSTATEMENT TO FORMER POSITION**

An employee generally is entitled to be restored to his/her original position and to equivalent conditions of employment. This may not be applicable to employees who are designated as "highly compensated employees." The district cannot guarantee that an employee will be returned to his/her original job. A determination as to whether a position is an "equivalent position" will be made by the district. A highly compensated employee is one who is salaried and is among the highest paid ten percent of the employees employed within 75 miles of the employee's work site. An employee who qualifies as a highly compensated employee may be denied restoration to employment if necessary to prevent substantial and grievous economic injury to the operations of the district.

An employee who is ready to return from leave should complete a Notice of Intention to Return from Family or Medical Leave before he/she can be returned to work and must provide a physician's return-to-work release prior to returning to work from leave for personal illness. An employee may return to work before the expiration of a family or medical leave of absence. In this event, notification must be given to the employee's supervisor at least five working days prior to the employee's planned return.

## **FAILURE TO RETURN FROM LEAVE**

The failure of an employee to return to work upon the expiration of a family, medical or military-related leave of absence will subject the employee to immediate termination unless employee qualifies for and requests additional leave rights under the USPA or UCTA master contract or if an administrator, additional leave rights are granted by the Superintendent. Any termination as a result of this provision is subject to the same rights as a termination for cause.

## **INTERPRETATION OF THE ACT**

The district intends to remain faithful to the requirements of the Act. Questions regarding the interpretation, administration and application of the Act to eligible employees shall be resolved by reliance on the FMLA and its interpretive regulations. Where relevant, the district will also consider its policies, rules, practices and negotiated agreements.

Appropriate applications and medical certifications are available in the benefits office of the Human Resources Department.

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