

## **GBCBC - FAMILY AND MEDICAL LEAVE ACT**

Pursuant to the Family Medical Leave Act of 1993, the School District will provide up to 12 weeks of unpaid family/medical leave per year for employees eligible for such leave. The following policy outlines the basic requirements for obtaining leave, the amount of leave that may be taken, and how the leave relates to other time off provided by the School District.

**EMPLOYEE ELIGIBILITY** – Employees who have worked for the School District for at least 12 months and who have worked at least 1,250 hours in the 12 months proceeding the date that requested leave is to begin are eligible for family/medical leave. Employees also must work with at least 50 other employees and within 75 miles of the same School District to be eligible. Employees who do not satisfy these requirements are not eligible for family/medical leave, but may be eligible for other leave under other School District policies.

Employees may take family/medical leave in the following circumstances:

1. To care for a newborn child, so long as leave is completed by the child's first birthday;
2. Placement of a child for adoption or foster care, so long as the leave is completed by one year following initial placement;
3. To care for a spouse, child or parent of an employee who requires such care because of a serious health condition; or
4. Because the employee has a serious health condition which renders him unable to perform his/her job.
5. Because a family member has been called to active military duty.
6. Because a family member requires care with a serious illness or injury incurred in the line of active duty.

**DEFINITION OF SERIOUS HEALTH CONDITION** – A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**AMOUNT OF FAMILY/MEDICAL LEAVE** – In no event can family/medical leave last for longer than 12 weeks per year. The year, for these purposes, shall be July 1 through June 30. Employees who wish to take family/medical leave will be required to substitute any accrued but unused vacation and other leave for family/medical leave (i.e., use of other leave will count as concurrent use of family/medical leave). If other accrued leave is exhausted in less than 12 weeks, employees may augment such leave with family/medical leave until the total of all leave equals 12 weeks. No additional vacation or sick leave will accrue while an employee is on

family/medical leave. However, upon returning to work, employees will continue to accrue vacation and other leave.

An employee who is taking family/medical leave on account of a serious medical condition of himself/herself, a spouse, a child, or a parent may take leave intermittently or on a reduced-schedule basis. Employees taking family/medical leave for any other reason are not entitled to leave on an intermittent or reduced-schedule basis. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the district's operations. When necessary, an employee on intermittent or reduced-schedule leave may be transferred to another position, with no loss in pay or benefits, which will more easily accommodate the need for leave. Intermittent or reduced-leave is limited to no less than ½ day.

**SPECIAL RULES FOR MILITARY ENTITLEMENTS** – Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. Leave due to qualifying exigencies may be taken on an intermittent basis.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

**SPECIAL RULES FOR TEACHERS** – Congress created special rules for teachers who must take family/medical leave intermittently due to their own or covered relatives' serious health conditions. If the teacher would be on leave for more than 20 percent of the working days in the period for which the teachers seeks intermittent leave, the School District may require the teacher to elect either (1) to take non-intermittent leave for the period not to exceed the duration of the planned medical treatment or (2) to transfer temporarily to an available alternative position that the employee is qualified to hold, that has equivalent pay and benefits, and that better accommodates intermittent leave than the employee's regular position.

Special provisions also limit teachers' rights to take family/medical leave, either intermittent or non-intermittent, close to the end of an academic term. The United States Department of Labor's regulations define "academic term" to mean a semester. If a teacher wishes to begin family/medical leave (for any purpose) more than five weeks before the end of the term and to return with less than three weeks left in the term, the School District may require the teacher to remain on leave until the end of the term. If the employee wishes to begin family/medical leave (for any purpose except his/her own serious health condition) more than three but less than five weeks before the end of the term and to return during the last two weeks of the term, the School District may require the teacher to remain on leave until the end of the term. If the teacher wishes to begin family/medical leave (for any purpose except his/her own serious health condition) during the last three weeks of the term and wishes to take leave of more than five

working days, the School District may require the teacher to remain on leave until the end of the term.

**HEALTH AND OTHER INSURANCE BENEFITS** – During family/medical leave, an employee's health insurance will continue on the same terms as when the employee had continued to work. If this requires employee contribution for health insurance, the employee must make timely premium payments in order to maintain insurance for himself/herself and dependents. If an employee does not return from family/medical leave, the School District is entitled to collect all health premiums paid during the family/medical leave from the employee.

It may be necessary for the employee to continue other benefits as well, such as disability or life insurance, in order to be entitled to the same coverage upon return from leave. Employees will be required to pay premiums for any coverage which must be continued during the leave.

**EMPLOYEE RESPONSIBILITIES** – Employees seeking leave must provide, to the extent practicable, 30 days' notice that they intend to take family/medical leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and must comply with the school/district normal call-in procedures, absent unusual circumstances. If an employee does not provide at least 30 days' notice, an explanation must be provided as to why less notice was given. The School District may either permit the employee to begin the leave as requested or require him/her to wait 30 days until after notice was provided to begin leave. Forms for notifying the School District of the need for leave are available from the Superintendent's Office.

Employees must provide sufficient information for the District to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include, but is not limited to that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the District if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Forms for medical certifications are available from the Superintendent's Office. These forms must be provided within 15 days after the request for leave is made. Employees who do not provide this information in a timely manner may be denied leave.

If the medical certification form is found to be incomplete or insufficient, the District will specify in writing what information is lacking, and give the employee 7 calendar days to cure the deficiency.

**GENETIC INFORMATION** – The Genetic Information Nondiscrimination Act (GINA) prohibits the District from requesting or requiring genetic information of employees or their family members. In order to comply with this law, the District is asking that employees not provide any genetic information when responding to a request for medical information. “Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”

**EMPLOYEE RESPONSIBILITY FOR REGULAR CONTACT** - It is advised that employees taking family and medical leave stay in contact with school administration throughout their extended leave

**DISTRICT RESPONSIBILITY FOR NOTICE OF ELIGIBILITY** - The District shall inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the District will provide a reason for ineligibility.

The District will inform employees if the leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the District determines that the leave is not FMLA-protected, the District will notify the employee.

**DISTRICT CONTACT OF HEALTH PROVIDER** – The District may contact the employee's health care provider regarding information provided on the certification form. Contact will be made by the Superintendent's Office. No contact will be made by the employee's direct supervisor.

**REINSTATEMENT** – At the beginning of the family/medical leave, the employee is to inform the Superintendent of his/her expected return date. Except as otherwise provided by law, employees will be returned to the same or an equivalent position to the position occupied before the leave begins. An equivalent position is one that is similar in terms of pay, benefits and terms and conditions of employment. Under certain conditions a "key employee" may not be reinstated to the same or a similar position.

If the employee takes leave on account of his/her serious medical condition, he/she will be required to present a medical certification of "fit for duty" to perform the essential functions of his/her job before being permitted to return. If an employee fails to provide this certification within 50 days after the conclusion of the leave, the employee may be terminated.

**EARLY RETURN TO WORK** – An employee may return prior to the granted period of time at the discretion of the District.

**OTHER EMPLOYMENT OR UNEMPLOYMENT BENEFITS** – The employee is prohibited from seeking or accepting employment with another employer during the time that FMLA leave is granted by the Epping School District. Receiving or applying for unemployment benefits during the time that FMLA leave is granted is prohibited and is cause for termination.

**DISTRICT NOTICE** - The District shall post a notice prepared or approved by the Secretary of Labor stating the pertinent provisions of the Family and Medical Leave Act, including information concerning the enforcement of the Act. The District shall also include FMLA information in personnel handbooks.

**COLLECTIVE BARGAINING REFERENCE** - The user of this policy is also directed to the applicable provisions of any Collective Bargaining Agreements in the district.

Statutory/Regulatory/Policy/Handbook Cross References

Title 29 B 2601 et. seq.

Title II of the Genetic Information Nondiscrimination Act of 2008

Handbook (Referenced in Personnel Handbooks)

APPROVED/REVISED: July 20, 2006, August 17, 2006, August 20, 2009, August 18, 2011