

Windham School District

GCCBC

FAMILY AND MEDICAL LEAVE POLICY

Pursuant to the Family and Medical Leave Act of 1993 (FMLA), the School District will provide up to 12 weeks of unpaid leave (or up to 26 weeks for the care of a service member) 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 District.

ELIGIBILITY

Employees who have at least 12 months of service in the District and who have worked at least 1,250 hours in the 12 months preceding the date that requested leave is to begin are eligible for family/medical leave. Employees who do not satisfy these requirements are not eligible for family/medical leave, but may be eligible for other unpaid leave in accordance with District policy.

FMLA provides eligible employees with up to 12 weeks in a twelve-month period (and in some cases up to 26 weeks) of unpaid, job-protected leave for the following reasons:

1. To care for a newborn child as 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 (under 18 years of age unless mentally or physically disabled) 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 or her unable to perform his or her job, including any work-related illness or injury.
5. Because of any qualifying exigency (as defined by the Department of Labor) arising from the fact an employee's spouse, child, parent is on covered active duty or has been notified of an impending call or order to active duty in the Armed Forces. A "qualifying exigency" includes: (a) short-notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; and (h) additional activities related to a family member's call to covered active duty where the employer and the District may agree to the leave. The FMLA defines "covered active duty" for a member of a regular component

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of the Armed Forces to mean duty during the deployment of that member to a foreign country. In the case of a member of a reserve component of the Armed Forces, “covered active duty” means duty during the deployment of that member to a foreign country or an order to active duty.

6. Subject to the provisions of the FMLA, an eligible employee who is the spouse, child, parent, or nearest blood relative of a covered service member who is recovering from a serious illness or injury is entitled to up to twenty-six (26) weeks of leave in a single twelve (12) month period to care for the service member. The “single twelve (12) month period” begins on the first day the employee takes military caregiver leave and ends twelve (12) months after that date.

A serious health condition is defined as an “illness, injury, impairment, or physical or mental condition” that requires either inpatient care (in a hospital, nursing home or hospice) or at least continuing treatment by a health care provider.

If a husband and wife 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 with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave or combined total of 26 weeks to care for a covered injured or ill service member within a twelve (12) month period.

A husband and wife are limited to a combined total of twenty-six (26) work weeks of FMLA leave during a single twelve (12) month period if the leave is for: (a) the care for a covered service member with a serious illness or injury; or (b) a combination of leave to care for a covered service member and leave for another FMLA purpose.

HEALTH AND OTHER INSURANCE BENEFITS

Employees are entitled to receive health benefits (e.g., medical, dental etc) during the leave at the same level and terms of coverage as if they had been working throughout the leave. The employee is responsible for their portion of all insurances while on FMLA leave and must make timely premium payments to maintain the coverage. If the employee does not return from FMLA leave, the District is entitled to collect all premiums paid during the FMLA 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.

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NOTICE OF LEAVE

Employees seeking leave ordinarily must provide the District at least 30 days notice if the need for leave is foreseeable. If an employee does not provide at least 30 days notice, an explanation must be provided as to why insufficient notice was given. The District may either permit the employee to begin the leave as requested or deny the leave until 30 days after the notice is provided.

In the event an employee requires leave for a foreseeable qualifying exigency because a spouse, child, or parent of an employee is called to active duty (or is notified of an impending call or order to active duty), an employee shall provide the District with such notice as is reasonable and practicable.

Congress created special rules for teachers who must take family/medical leave either intermittently or toward the end of a school term. (See 29 C.F.R. §§ 825.600 through 825.604). For example, in certain circumstances teachers requesting family medical leave toward the end of the term may be required to remain on leave until the end of the academic term. Additionally, certain other rules apply for teachers requesting intermittent or reduced schedule family medical leave. Teachers should see the Human Resource Director for a detailed explanation of these rules.

CALCULATING FMLA LEAVE

The District will measure the 12 month period as a rolling 12 month period measured backwards from the date an employee uses any leave under this policy. Each time an employee takes leave, the district will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave; with the balance remaining being the amount the employee is entitled to take at that time.

As previously indicated in this Policy, an employee may take up to twenty-six (26) weeks of family medical leave to care for a covered service member during a single twelve (12) month period. For the purpose of calculating an employee's eligibility for the military caregiver leave, a "single twelve (12) month period" begins on the first day the employee takes military caregiver leave and ends twelve (12) months after that date. An employee may not carry over any unused military caregiver leave and such leave is provided only on a per-service member, per-injury basis.

CERTIFICATION OF NEED FOR LEAVE

Each employee requesting family/medical leave due to a medical condition of the employee, spouse, child or parent must provide certification from a health care provider which sets forth:

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1. The name, address, telephone, number, and fax number of the health care provider and type of medical practice/specialization;
2. The approximate date on which the serious health condition commenced, and its probable duration;
3. A statement or description of appropriate medical facts regarding the patient's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave. Medical facts may include symptoms, diagnosis, hospitalization, or other such information as provided by the FMLA.
4. If the employee is the patient, information sufficient to establish that the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions, and the likely duration of such inability;
5. If the patient is a covered family member with a serious health condition, information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member;
6. If an employee requests leave on an intermittent or reduced schedule basis for planned medical treatment of the employee's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery;
7. If an employee requests leave on an intermittent or reduced schedule basis for the employee's serious health condition, including pregnancy, that may result in unforeseeable episodes of incapacity, information sufficient to establish the medical necessity for such intermittent or reduced schedule leave and an estimate of the frequency and duration of the episodes of incapacity; and
8. If an employee requests leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such leave is medically necessary to care for the family member and an estimate of the frequency and duration of the required leave.

The employee must provide a medical certification meeting the above-referenced criteria from the employee's medical care provider within fifteen (15) days of the District's request for certification. Optional forms are available from the Human Resource Department. In the event the employee fails to return the medical certification within fifteen (15) days after the District's request, the District may deny the employee leave in accordance with the regulations implementing the FMLA."

LEAVE USE DURING FMLA

The District does require employees to use accrued vacation, sick and personal time during FMLA leave in accordance with district policies for leave usage.

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INTERMITTENT LEAVE

An employee taking family/medical leave due to the serious medical condition of a spouse, a child, a parent, covered service member or their own serious medical condition, 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. 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. Teachers who would be absent more than 20 percent of the time on intermittent leave also may be required either to transfer to another position or to take leave non-intermittently.

An employee may take such intermittent or reduced schedule leave due to a qualifying exigency (as defined by the Department of Labor) arising from the fact an employee's spouse, child, or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

RETURNING TO WORK

At the beginning of the family/medical leave, the employee is to inform the District of his/her expected return date. At the end of the FMLA leave, the employee will be reinstated to the same or equivalent position occupied before the leave began. An equivalent position is one that is similar in terms of pay, benefits and terms of conditions of employment. Under certain conditions "key employees" may not be reinstated to the same or similar position.

If the employee takes leave due to his/her own serious medical condition, he/she will be required to present a medical certification of his/her fitness for duty before being permitted to return. Unless the employee provides either a certification of the employee's fitness for duty or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated." See 29 C.F.R. § 825.313(d).

CERTIFICATION OF LEAVE TAKEN BECAUSE OF A QUALIFYING EXIGENCY

Employees requesting FMLA leave because of a qualifying exigency caused by a covered family member's call to active military duty with the Armed Forces must provide documentation of such order to active service and may include active duty orders or other documentation issued by the military that indicates the covered military family member is on active duty, or called to active duty, in support of a contingency operation and the dates of the active duty service. For any other type of qualifying exigency, the District may require an employee provide certification or other such documentation to the extent permitted by the FMLA.

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CERTIFICATION FOR LEAVE TAKEN TO CARE FOR A COVERED SERVICE MEMBER (MILITARY CAREGIVER LEAVE)

Employees requesting FMLA leave to care for a covered service member with a serious injury or illness must obtain a certification completed by an authorized health care provider (as provided for by 29 C.F.R. § 825.310) for the covered service member. The District may request such information from the covered service member's health care provider to the extent permitted by the FMLA in order to establish an employee's eligibility for FMLA leave.

* The FMLA defines "covered service member" as a: (1) of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is on the temporary disability retired list, for a serious injury or illness; or (2) a veteran of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness incurred in the line of duty and who was a member of the Armed Forces at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

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