

NORTH BRANFORD BOARD OF EDUCATION

SERIES 2000: PERSONNEL

P2250

FAMILY AND MEDICAL LEAVE OF ABSENCE

Purpose

To define the policy and procedure of the North Branford Board of Education regarding family and medical leave as required by the Family and Medical Leave Act of 1993 (FMLA).

Policy

Eligibility

Employees who have been employed by the Board for at least twelve (12) months, and have performed at least 1,250 hours of actual services during the twelve (12) months preceding commencement of the leave (excluding any paid or unpaid leave) may take up to twelve (12) weeks of unpaid leave for the following reasons:

1. Birth and/or care of a child of the employee;
2. Placement of a child into the employee's family by adoption or by a foster care arrangement;
3. Care of the employee's spouse, child or parent who has a serious health condition; or
4. Inability of the employee to perform the functions of the employee's position due to a serious health condition.

Any leave taken by an employee during the applicable twelve (12) month period will be used to determine the amount of available leave pursuant to the Family and Medical Leave Act. See "Method for Calculating Twelve Month Period," set forth below.

The right to family leave for the birth and/or placement of a child into an employee's family may only be taken within the twelve (12) months after the date of the birth or placement of the child. In the case of unpaid leave for the birth or placement of a child, intermittent leave

or working a reduced number of hours is not permitted, unless both the employee and the Board agree. As used in this policy, whenever agreement or exercise of discretion is required, "Board"¹ shall mean the Superintendent, or other designee(s), charged with FMLA compliance responsibility. If both spouses are employed by the Board, the combined leave shall not exceed twelve (12) weeks.

For the purposes of this policy, a serious health condition means an illness, injury, impairment or physical or mental condition that involves:

any period of incapacity or treatment in connection with or consequent to in-patient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility;

- any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three (3) calendar days, that also involves continuous treatment by (or under the supervision of) a health care provider;
- continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days;
- or prenatal care.

Intermittent Leave/Reduced Hours

In the case of unpaid leave for serious health conditions, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. Where an employee requests intermittent leave or leave on a reduced hours basis due to the serious health condition of a family member or the employee, the Board has the option, in its sole discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have pay and benefits equivalent to the employee's regular job. The shortest period of time (one hour or less) that the payroll system uses to account for absences or leave shall constitute the minimum intermittent or reduced leave increment.

Substitution of Accrued Leave

Employees may be required to use their available accrued leave time, such as personal leave and/or vacation time, during the twelve (12) week FMLA leave period, and available sick days when FMLA leave is taken because of a serious health condition of the employee. The Board's policies, practice(s) and/or collective bargaining agreement(s) regarding vacation time, personal days, sick days or other leave time will determine if an

employee is eligible to receive accrued paid or unpaid leave. The employee will be notified immediately, in writing, which accrued leave, if any, will be counted towards the twelve (12) weeks of FMLA leave. If written notice is not given to the employee by the date of expiration of the leave, the accrued leave will not be counted towards the employee's available twelve (12) weeks of FMLA leave.

Employee Notice - Foreseeable/Unforeseeable Need

All requests for Family or Medical Leaves of Absence shall be in writing. When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the Board at least thirty (30) days notice of the employee's intention to take leave. If the date of birth or placement of a child requires the employee's leave to begin less than thirty (30) days from the date of notice to the Board, the employee must provide such notice as soon as practical. Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must:

- give at least thirty (30) days notice, or as soon as practical if treatment starts in less than thirty (30) days; and
- make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the Board, subject to the approval of the health care provider.
- Where the need for leave is unforeseeable, the employee must give notice as soon as practical.

Certification of Physician/Practitioner

Any leave request based on a family member's or employee's own serious health condition must be supported by certification from a health care provider. The employee must provide a copy of the certification to the Board in a timely manner. (Fifteen calendar days will be allowed to provide the certification.) Certification from the health care provider must contain:

- the date the serious health condition began;
- the possible duration of the condition;
- if the leave is based on the care of a spouse, child or parent, a statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue;

- in the case of intermittent leave or leave on a reduced hours basis for planned medical treatment, the date the treatment is expected to be given and the duration of the treatment.

Health Insurance

During FMLA leaves of absence, the Board will continue to pay its portion of the health insurance premiums and the employee must continue to pay his/her share of the premiums. Failure of the employee to pay his/her share of the health insurance premiums may result in loss of coverage. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the Board for payment of health insurance premiums during the FMLA leave, *unless* the employee does not return because of the presence of a serious health condition which prevents that employee from performing his/her job, or circumstances beyond the control of the employee.

During FMLA leave, when no other leave is substituted, the employee shall not accrue any additional benefits. Employment benefits accrued by the employee up to the day on which the FMLA leave of absence begins will be available upon return from leave.

With respect to pension and retirement plans, FMLA leave will be treated as continued service for purposes of vesting and eligibility to participate.

Return to Work

The Board may require an employee on FMLA leave to report periodically on his/her status, and intention to return to work. Also, periodic recertification of the medical condition may be required.

An employee taking leave due to the employee's serious health condition may be required to obtain certification that the employee is able to resume work prior to returning from any FMLA leave. The Board will consider the nature of the employee's serious health condition, and the demands of the employee's position, when deciding whether to require certification of ability to resume work.

Employees who return to work from FMLA leave of absence within or on the business day following the expiration of the twelve (12) weeks are entitled to return to their job or an equivalent position without loss of benefits or pay.

Method for Calculating Twelve Month Period

For purposes of this policy, the applicable twelve month period shall be the twelve-month period measured forward from the date the employee's first FMLA leave begins.

If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the twelve weeks of leave to which an employee is entitled. Where an employee normally works a part time schedule, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis. If any employee's schedule varies from week to week, a weekly average of the hours worked over the twelve weeks prior to the beginning of the leave period is used for calculating the employee's normal work week.

INSTRUCTIONAL EMPLOYEES

"Instructional employees" are those employees whose principal function is to teach and instruct students in a class, a small group, or an individual setting such as teachers, athletic coaches, and certain special education assistants. Teacher assistants or aides who do not have as their principal job actual teaching or instructing are not considered "instructional employees" for purposes of this policy. Auxiliary personnel such as counselors, psychologists or curriculum specialists, whose principal function is not teaching or instructing students in a class, small group or individual setting are not considered "instructional employees". Bus drivers, cafeteria workers, maintenance workers, and similar employees also are not "instructional employees".

Intermittent Leave/Reduced Leave-Instructional Employees

If an eligible instructional employee requests intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than twenty-percent (20%) of the total number of working days over the period the leave would extend, the Board of Education, at its option, may require the employee to choose either to:

1. Take leave for a period or periods of particular duration, not greater than the duration of the planned treatment; or
2. Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and better accommodates recurring periods of leave than does the employee's regular position.

An instructional employee who does not give required notice of foreseeable leave to be taken intermittently or on a reduced leave schedule, may be required by the Board to take leave of a particular duration, or to transfer temporarily to an alternative position.

Alternatively, the Board may require the employee to delay the taking of leave until the notice provision is met. This notice provision, however, shall not be interpreted to be more strict for purposes of FMLA leave than the Board requires from its employees otherwise taking comparable paid or unpaid leave.

Instructional Employees - Academic Term

The school year is divided into two academic terms. "Academic term" means the school semester which typically ends near the end of the calendar year or the end of spring each school year. An instructional employee who begins leave *more than five weeks before* the end of a term may be required by the Board to continue taking leave until the end of the term if:

- A. The leave will last at least three weeks, and
- B. The employee would return to work during the three week period before the end of the term.

If an instructional employee begins leave for a purpose other than the employee¹'s own serious health condition *during the five-week period* before the end of the term, the Board may require the employee to continue taking leave until the end of the term if:

- (i) The leave will last more than two weeks, and
- (ii) The employee would return to work during the two-week period before the end of the term.

If the instructional employee begins leave for a purpose other than the employee's own serious health condition, *during the three-week period* before the end of the term, and the leave will last more than five working days, the Board may require the employee to continue taking leave until the end of the term.

PROCEDURE

Notice by an employee of the need for a leave of absence under FMLA must be given to an appropriate supervisor at least thirty (30) days before the leave is to commence, or as soon as possible if thirty (30) days notice is not possible. The Board may waive such notice requirement and designate accrued leave as FMLA leave if it would qualify, except for lack of the required notice.

Each employee taking leave which meets the requirements for FMLA leave will be provided a copy of this policy, the "Request For And/Or Response To Leave Under The Family And

Medical Leave Act of 1993" form and the "Certification of Physician or Practitioner form (if appropriate). Such forms are incorporated in, and made a part of this policy.

RECORDS

The FMLA requires employers to maintain records in accordance with the record keeping requirements of Section 11(c) of the Fair Labor Standards Act and in accordance with FMLA regulations. FMLA regulations require that such records disclose the following:

1. Name, address and occupation of the employee; rate or basis of pay and terms of compensation; daily and weekly hours worked per pay period; additions to or deductions from wages; and total compensation paid;
2. Dates FMLA leave is taken by employees. Leave must be designated in records as FMLA leave;
3. If FMLA leave is taken in increments of less than one full day, the hours of the leave;
4. Any written notice of FMLA leave given by the employee, and copies of all notices given to employees as required by law and by this policy;
5. Any documents describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leaves;
6. Payment of any employee benefits premiums; and
7. Records of any dispute regarding designation of leave as FMLA leave, including any written statement from the Board or an employee of the reasons for the designation and for the disagreement

Medical Records

Records and documents relating to medical certifications, recertifications or medical histories of employees or employees' family members, shall be maintained in separate files/records and treated as confidential medical records.

Policy Adopted: 8/23/01