

## **FAMILY AND MEDICAL LEAVE**

### **I. POLICY**

#### **A. Introduction**

The Federal Family and Medical Leave Act of 1993 (“FMLA”) entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons, as explained below.

#### **B. Employee Eligibility**

To be eligible for FMLA benefits with the Acton-Boxborough Regional School District (the “District”), an employee must:

1. Work for the District;
2. Have worked for the District for a total of at least twelve months in the prior 7 years; and
3. Have worked at least 1,250 hours over the previous twelve months, prior to the leave request.

#### **C. Leave Entitlement**

Section 1. The District will grant an eligible employee up to a total of twelve work weeks of unpaid leave during a rolling 12-month period<sup>1</sup> for one or more of the following reasons:

1. For the birth of a child and to care for the new born child;
2. For the placement with the employee of a child for adoption or foster care;
3. To care for an immediate family member (spouse, child, or parent) with a serious health condition;
4. When the employee is unable to work because of his/her own serious health condition that prevents him/her from performing the functions of his/her job; or
5. For a “qualifying exigency” (as defined in 29 CFR § 825.126) when the employee’s spouse, child, or parent who is a member of any branch of the

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<sup>1</sup> For the purposes of calculating the 12-month period referred to above, the District will measure the 12-month period backward from the date of an employee’s request for FMLA leave. Each time an employee takes FMLA leave, the District will determine the total amount of FMLA leave used by the employee during the preceding 12 months, and the remaining time available to the employee will be the balance of 12 weeks which has not been used.

military, including the National Guard or Reserves, has been deployed or called to active duty in a foreign country.

Spouses employed by the District are jointly entitled to a combined total of twelve work weeks of family leave except when the leave is needed to care for a child or a spouse with a serious health condition; under such circumstances, such employees may each be eligible for up to 12 weeks of family leave.

Leave for birth or placement for adoption or foster care must conclude within twelve months of the birth or placement.

Section 2. The District will also grant an eligible employee up to a total of twenty-six weeks of unpaid FMLA leave for the following reasons:

1. To care for a spouse, child, parent, or next of kin (i.e., nearest blood relative), who is a current member of the Armed Forces (including a member of the National Guard or Reserves) and who is undergoing medical treatment, recuperation or therapy, is an outpatient, or is on the temporary disability retired list, for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty in the Armed Forces.
2. To care for a spouse, child, parent, or next of kin (i.e., nearest blood relative), who is a veteran undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces (or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty) and that manifested itself before or after the member became a veteran. The veteran must have been a member of the Armed Forces (which includes the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy.

Such 26-week leave period shall only be available for a single 12-month period.<sup>2</sup> To the extent spouses work for the District, the aggregate number of workweeks available to both spouses shall be limited to 26 weeks during the single 12-month period. In addition, any leave taken during that single 12-month period for one of the other qualifying reasons (as noted in this Policy) shall count against the 26 weeks available. (Only 12 of the 26 weeks total may be used for an FMLA-qualifying reason other than to care for a covered servicemember.)

### Section 3.

1. Under some circumstances, employees may take FMLA leave intermittently.

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<sup>2</sup> Calculation of the single 12-month period in this Section shall be based off the 12-month period immediately following the first day of such FMLA-qualifying leave. Such 26-week period shall not be based on the rolling measurement noted in Section 1.

2. Also, the District may require employees to use accrued paid leave<sup>3</sup>, such as sick or vacation leave, to cover some or all of the FMLA leave. When paid leave is used, the employee must follow the District's paid leave policies and procedures with respect to use of such leave.

3. When intermittent leave is needed to care for an immediate family member, the employee's own illness, or a covered servicemember, and is for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the District's operation.

4. The District may temporarily transfer an employee taking intermittent or reduced-schedule leave to an alternative job, with equivalent pay and benefits, that accommodates recurring periods of leave better than the employee's regular job when such leave is foreseeable based on planned medical treatment.

5. Any leave taken by an eligible employee for any of the reasons covered by this policy will be considered FMLA leave and will be designated as such even if the employee does not specifically identify the time off as FMLA leave.

D. Maintenance of Health Benefits

The District will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The employee will make arrangements with the District to pay his or her share of health insurance premiums while on leave. The District may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

E. Job Restoration

Upon return from FMLA leave, an employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, an employee's use of FMLA leave will not result in the loss of an employment benefit that the employee earned or was entitled to before using FMLA leave.

F. Notice Certification and Status Reports

Employees seeking to use FMLA leave are required, as appropriate, to provide to their appointing authority:

1. NOTICE: Thirty (30) days advanced notice of the need to take FMLA leave when the need is foreseeable, otherwise as soon as is practicable;
2. MEDICAL CERTIFICATION:

<sup>3</sup> The District's policy on use of paid leave is subject to, and will be administered in accordance with, the Massachusetts Maternity Leave statute.

- (a) Medical certification supporting the need for leave due to a serious health condition affecting the employee, an immediate family member, or a covered servicemember with a serious injury or illness;
  - (b) Second or third medical opinions and periodic recertifications (at the District's expense) if requested by the District; and
  - (c) Medical certification and/or fitness for duty certification supporting the employee's ability to return to work as requested by the District, which the District may request include a statement from a health care provider that the employee can perform all of the essential functions of the job.
- 3. QUALIFYING EXIGENCY: Certification supporting the need for leave due to a qualifying exigency.
  - 4. STATUS REPORTS: Periodic reports during FMLA leave regarding the employee's status and intent to return to work as requested by appointing authority.

The District will provide the employee with the appropriate notice, designation and certification forms in accordance with the FMLA regulations.

G. Other Provisions

This Policy shall at all times be interpreted in a manner consistent with the Department of Labor's Regulations pertaining to the Family and Medical Leave Act of 1993. The FMLA does not affect any other federal or state law which prohibits discrimination, nor supercede any state or local law which provides greater family or medical leave protection. Nor does it affect the District's obligation to provide greater leave rights under a CBA or employment benefit plan, where applicable.

H. Departmental Procedures

The District's appointing authorities may establish their own procedures to implement this policy, subject to the approval of the Superintendent of Schools.

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