

POLICY GUIDE

3431.ADMINISTRATION

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Family Leave

Jan 21

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1643 FAMILY LEAVE (M)

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A. Introduction

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The Board of Education will provide family leave to staff members in accordance with the New Jersey Family Leave Act (NJFLA) and the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act (NJFLA).

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~~FMLA leave for eligible staff members shall be up to twelve weeks leave of absence in a twelve month period upon advance notice to the district for the birth of a son or daughter of the staff member and in order to care for such son or daughter; for the placement of a son or daughter with the staff member for adoption or foster care; in order to care for the spouse, son, daughter, or parent of the staff member if such spouse, son, daughter, or parent has a serious health condition; or for a serious health condition that makes the staff member unable to perform the functions of the position of such staff member, or because of any qualifying exigency arising out of the fact that the staff member's spouse, son, daughter, or parent is a military member on active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty). In addition, eligible staff members may take up to a combined total of twenty six workweeks in a single twelve month period to care for a covered servicemember with a serious injury or illness.~~

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~~NJFLA leave for teaching staff members shall be up to twelve weeks leave of absence in any twenty four month period upon advance notice to the district so that a staff member may provide care made necessary by the birth of a child of the staff member, the placement of a child with the staff member in connection with adoption of such child by the staff member, and the serious health condition of a spouse, parent, or child.~~

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B. Applicability

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~~The Board will comply with requirements of the New Jersey and Federal Family Leave laws. The). These laws have similar and different provisions that may provide different rights and obligations for the a staff member and/or the Board. The staff member shall be afforded the most favorable rights if there is a conflict in the rights afforded to the staff member under the two laws.~~



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1. —

If ~~the~~ staff member is eligible for leave for reasons ~~provided~~recognized under both the FMLA and NJFLA, then the time taken shall ~~be concurrent~~run concurrently and be applied to both laws.

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2. — ~~The NJFLA provides twelve weeks leave in a twenty-four month period while~~and the FMLA provides twelve weeks leave in a twelve-month period. ~~A staff member is eligible for up to twelve weeks leave in the first twelve months of the twenty-four month period under the NJFLA. A staff member is eligible for up to twelve weeks leave in the second twelve month period under the FMLA.~~month period

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3. — ~~In the event the reason for the family leave is recognized under one law and not the other law, the staff member is eligible for each law's leave entitlements within one twelve month period. (Example: A staff member may use their FMLA leave for a twelve week family leave for their own pregnancy, which is considered a "serious health condition" under FMLA, and upon conclusion of the twelve week FMLA leave, the staff member would be eligible for a twelve week NJFLA leave to care for their newborn or any other reasons pursuant to the NJFLA.)~~

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C. —

A. New Jersey Family Leave Act

1. Definitions Relative to New Jersey Family Leave Act

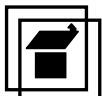
"Base Hours" means the hours of work for which a staff member receives compensation. Base hours shall include overtime hours for which a staff member is paid additional or overtime compensation, and hours for which a staff member receives workers' compensation benefits. Base hours shall also include hours a staff member would have worked except for having been in military service. Base hours do not include hours for when a staff member receives other types of compensation, such as administrative, personal leave, vacation, or sick leave.

"Child" means a biological, adopted-

1. Federal Family and Medical Leave Act (FMLA)

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"Contingency operation" means a military operation that results in the call or order to, or retention on, active duty of members of the uniformed services during a war or during a national emergency declared by the President or Congress.



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-, foster child, or resource family child, stepchild, legal ward, or child of a parent, including a child who becomes the child of a parent pursuant to a valid written agreement between the parent and a gestational carrier.

“Eligible employee” means any individual employed by the same employer for twelve months or more, who has worked 1,000 or more base hours during the preceding twelve month period.

“Employer” includes the State, any political subdivision thereof, and all public offices, agencies, boards, or bodies.

“Family member” means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood to a staff member, and any other individual that a staff member shows to have a close association with a staff member which is the equivalent of a family relationship.

“Health care provider” means a duly licensed health care provider or other health care provider deemed appropriate by the Director of the Division on Civil Rights in the New Jersey Department of Law and Public Safety.

~~“Covered active duty” or “call to covered active duty” means duty during deployment of a member with the Armed Forces to a foreign country and, in the case of a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation.~~

~~“Covered servicemember” means a current member of the Armed Forces (including National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or a covered veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness.~~

~~“Covered veteran” means an individual who was a member of the Armed Forces (including National Guard or Reserves), discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible staff member takes FMLA leave~~



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~~to care for the covered veteran. For a veteran discharged prior to March 8, 2013, the effective date of the FMLA Final Rule, the period between October 28, 2009 and March 8, 2013 will not count towards the determination of the five-year period. 29 CFR §825.127(b)(2)~~

~~“Military caregiver leave” means leave taken to care for a covered servicemember with a serious injury or illness under FMLA. 29 CFR §825.127~~

~~“Next of kin of a covered servicemember” means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin. For example, if a covered servicemember has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered servicemember's next of kin. Alternatively, where a covered servicemember has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered servicemember's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered servicemember pursuant to 29 CFR §825.122(k). 29 CFR §825.127(d)(3)~~

~~“Outpatient status” means, with respect to a covered servicemember who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. 29 CFR §825.127(b)(1)~~

~~“Parent” means a person who is the biological parent, adoptive parent, foster parent, resource family parent, step-parent, parent-in-law, or legal guardian, having a “parent-child relationship” with a child as defined by law, or having sole or joint legal or physical~~



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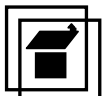
custody, care, guardianship, or visitation with a child, or who became the parent of the child pursuant to a valid written agreement between the parent and a gestational carrier.

“**Serious** health condition” means an illness, injury, impairment, or physical or mental condition which requires:

- a. Inpatient care in a hospital, hospice, or residential medical care facility; or
- b. Continuing medical treatment or continuing supervision by a health care provider.

As used in the definition of a serious health condition, “continuing medical treatment or continuing supervision by a health care provider” means:

- a. A period of incapacity (that is, inability to work, attend school, or perform regular daily activities due to a serious health condition, treatment therefore, and recovery therefrom) of more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - (1) Treatment two or more times by a health care provider; or
 - (2) Treatment by a health care provider on one occasion which results in a regimen of continuing treatment under the supervision of a health care provider;
- b. Any period of incapacity due to pregnancy, or for prenatal care;
- c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
- d. A period of incapacity, which is permanent or long-term, due to a condition for which treatment may not be effective (such as Alzheimer's disease, a severe stroke, or the terminal stages of a disease) where the individual is under continuing supervision of, but need not be receiving active treatment by, a health care provider; or



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e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

“Spouse” means a person to whom a staff member is lawfully married as defined by New Jersey law.

“State of emergency” means a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor, or for which a state of emergency has been declared by a municipal emergency management coordinator.

2. Reasons for NJFLA Leave

a. A staff member may take NJFLA leave to provide care made necessary by reason of:

(1) The birth of a child of the staff member, including a child born pursuant to a valid written agreement between the staff member and the gestational carrier;

(2) The placement of a child into foster care with the staff member or in connection with adoption of such child by a staff member;

(3) The serious health condition of a family member of the staff member; or

(4) A state of emergency declared by the Governor of New Jersey, or when indicated to be needed by the Commissioner of Health – New Jersey Department of Health or other public health authority, an epidemic or communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease which;



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- (a) Requires in-home care or treatment of a child due to the closure of the school or place of care of the child of a staff member, by order of a public official due to the epidemic or other public health emergency;
- (b) Prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by a staff member would jeopardize the health of others; or
- (c) Results in the recommendation of a health care provider or public health authority, that a family member in need of care by a staff member voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by a staff member, would jeopardize the health of others.

3. Staff Member Eligibility

- a. NJFLA leave may be taken for up to twelve weeks within any twenty-four month period. The NJFLA leave shall be unpaid with benefits subject to contributions required to be made by the staff member.
- b. A staff member is eligible for NJFLA leave if a staff member is employed by the same Board for twelve months or more, and has worked 1,000 or more base hours during the preceding twelve month period.
- c. The method to determine the twenty-four month period in which the twelve weeks of NJFLA leave entitlement occurs shall be a “rolling” twenty-four month period measured



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backward from the date a staff member uses any leave under NJFLA.

d. This Policy shall serve as notice to all staff members of the method chosen in A.3.c. above. This method shall be applied consistently and uniformly to all staff members.

(1) If the Board transitions to another method, the Board is required to give at least sixty days' notice to all staff members and the transition must take place in such a way that staff members retain their full benefit of twelve weeks of NJFLA leave under whichever method affords the greatest benefit to a staff member.

e. The Board shall grant NJFLA leave to more than one staff member from the same family (for example, a husband and a wife, or a brother and a sister) at the same time, provided such staff members are otherwise eligible for NJFLA leave.

f. The fact that a holiday may occur within the week taken by a staff member as NJFLA leave has no effect and the week is counted as a week of NJFLA leave.

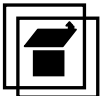
(1) However, if a staff member is out on NJFLA leave and the staff member is not regularly scheduled to work for one or more weeks, the weeks the staff member is not regularly scheduled to work do not count against their NJFLA leave entitlement.

4. Types of NJFLA Leave

a. Staff members are required to provide notice in writing for any NJFLA leave requested. In emergent circumstances, a staff member may provide the Board with oral notice when written notice is impracticable.

(1) Staff members must provide the Board written notice after submitting oral notice in emergent circumstances.

b. Consecutive NJFLA leave is NJFLA leave that is taken without interruption based upon a staff member's regular work schedule and does not include breaks in employment in which a staff member is not regularly scheduled to work.



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- (1) A staff member must provide the Board with notice of consecutive NJFLA leave no later than thirty days prior to the commencement of consecutive NJFLA leave, except where emergent circumstances warrant shorter notice.
 - (2) A staff member shall provide the Board with certification pursuant to A.5. below.
- c. Intermittent NJFLA leave is NJFLA leave due to a single qualifying reason, taken in separate periods of time, broken up by periods in which the staff member returns to work.
- (1) A staff member is entitled to take NJFLA leave intermittently for the birth of a child of the staff member, including a child born pursuant to a valid written agreement between the staff member and a gestational carrier or the placement of a child into foster care with the staff member or in connection with adoption of such child by the staff member.
 - (a) The staff member shall provide the Board with prior notice of not less than fifteen calendar days before the first day on which NJFLI benefits are paid for the intermittent NJFLA leave, unless an emergency or other unforeseen circumstance precludes prior notice.
 - (b) The staff member shall make a reasonable effort to schedule the intermittent NJFLA leave so as not to unduly disrupt the operations of the Board and, if possible, provide the Board, prior to the commencement of intermittent NJFLA leave, with a regular schedule of the days or days of the week on which the intermittent NJFLA leave will be taken.
 - (c) A staff member shall provide the Board with certification for intermittent NJFLA leave pursuant to A.5.b. below.



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- (2) The staff member is entitled to take intermittent NJFLA leave for the serious health condition of a family member of the staff member when medically necessary if:
- (a) The total time which the intermittent NJFLA leave is taken does not exceed twelve months if taken in connection with a single serious health condition. If the intermittent NJFLA leave is taken in connection with more than one serious health condition, the intermittent NJFLA leave must be taken within a consecutive twenty-four month period or until such time the twelve week NJFLA leave is exhausted, whichever is shorter;
- (b) The staff member provides the Board with prior notice of not less than fifteen calendar days before the first day on which benefits are paid for the intermittent NJFLA leave.
- (i) The staff member may provide notice less than fifteen days prior to the intermittent NJFLA leave if an emergency or other unforeseen circumstance precludes prior notice;
- (c) The staff member makes a reasonable effort to schedule the intermittent NJFLA leave so as not to unduly disrupt the operations of the school district and, if possible, provide the school district, prior to the commencement of intermittent NJFLA leave, with a regular schedule of the days or days of the week on which the intermittent NJFLA leave will be taken; and
- (d) The staff member provides the Board with a copy of the certification outlined in A.5.c. below.
- (3) In the case of NJFLA leave taken due to an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or



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efforts to prevent spread of the communicable disease, the NJFLA leave may only be taken intermittently if:

(a) The staff member provides the Board with prior notice of the intermittent NJFLA leave as soon as practicable;

(b) The staff member makes a reasonable effort to schedule the NJFLA leave so as not to unduly disrupt the operations of the school district and, if possible, provide the school district prior to the commencement of the intermittent NJFLA leave, with a regular schedule of the day or days of the week on which the intermittent NJFLA leave will be taken; and

(c) A staff member provides the Board with a copy of the certification outlined in A.5.d. below.

(4) Intermittent leave taken on a reduced leave schedule is NJFLA leave due to a single qualifying reason, that is scheduled for fewer than a staff member's usual number of hours worked per workweek, but not for fewer than a staff member's usual number of hours worked per workday and may only be taken to care for the serious health condition of a family member of a staff member when medically necessary, except that:

(a) A staff member shall not be entitled to intermittent NJFLA leave on a reduced leave schedule for a period exceeding twelve consecutive months for any one period of NJFLA leave;

(b) The staff member must provide the Board with prior notice of the intermittent NJFLA leave on a reduced leave schedule as soon as practicable;

(c) A staff member shall make a reasonable effort to schedule intermittent NJFLA leave



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on a reduced leave schedule so as not to disrupt unduly the operations of the school district. A staff member shall provide the school district with prior notice of the care, medical treatment, or continuing supervision by a health care provider necessary due to a serious health condition of a family member, in a manner which is reasonable and practicable; and

(d) A staff member must provide the Board with a copy of the certification outlined in A.5.c. below.

d. NJFLA leave taken because of the birth or placement for adoption of a child of the staff member may commence at any time within a year after the date of the foster care placement, birth, or placement for adoption.

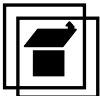
e. A staff member shall not, during any period of NJFLA leave, perform services on a full-time basis for any person for whom a staff member did not provide those services immediately prior to commencement of the NJFLA leave.

(1) A staff member on NJFLA leave may not engage in other full-time employment during the term of the NJFLA leave, unless such employment commenced prior to the NJFLA leave and is not otherwise prohibited by law.

(2) During the term of NJFLA leave a staff member may commence part-time employment which shall not exceed half the regularly scheduled hours worked for the Board from whom a staff member requested NJFLA leave. A staff member may continue part-time employment which commenced prior to a staff member's NJFLA leave, at the same number of hours that a staff member was regularly scheduled prior to such NJFLA leave.

(3) The Board may not maintain a policy or practice which prohibits part-time employment during the course of a NJFLA leave.

5. Certification



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- a. The Board shall require a staff member who requests NJFLA leave to sign a form of certification established by the Board attesting that such staff member is taking NJFLA leave in accordance with the law.
 - (1) The Board may not require a staff member to sign or otherwise submit a form of certification attesting to additional facts, including a staff member's eligibility for NJFLA leave.
 - (2) The Board may subject a staff member to reasonable disciplinary measures, depending on the circumstances, when a staff member intentionally misrepresents the reason that such staff member is taking NJFLA leave.
 - (3) The form of certification established by the Board shall contain a statement warning a staff member of the consequences of refusing to sign the certification or falsely certifying. Any staff member who refuses to sign the certification established by the Board may be denied the requested NJFLA leave.
 - (4) The Board requires that any period of NJFLA leave be supported by certification issued by a health care provider.
- b. Where the certification, issued by the health care provider, is for the birth of a child of a staff member, including a child born pursuant to a valid written agreement between the staff member and a gestational carrier or the placement of a child into foster care with the staff member or in connection with adoption of such child by the staff member, the certification need only state the date of birth or date of placement, whichever is appropriate.
- c. Any period of NJFLA leave for the serious health condition of a family member of a staff member shall be supported by certification provided by a health care provider. The certification shall be sufficient if it states:
 - (1) The date, if known, on which the serious health condition commenced;



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- (2) The probable duration of the condition;
 - (3) The medical facts within the knowledge of the provider of the certification regarding the condition;
 - (4) The serious health condition warrants the participation of the staff member in providing health care to the family member, as provided in the “Family Leave Act,” P.L. 1989, c.261 (C.34:11B-1 et seq.) and regulations adopted pursuant to the NJFLA;
 - (5) An estimate of the amount of time the staff member is needed for participation in the care of the family member;
 - (6) If the NJFLA leave is intermittent, a statement of the medical necessity for the intermittent NJFLA leave and the expected duration of the intermittent NJFLA leave; and
 - (7) If NJFLA leave is intermittent and for planned medical treatment, the dates of the treatment.
- d. In any case in which the Board has reason to doubt the validity of the certification provided pursuant to A.5.c. above, the Board may require, at its own expense, that a staff member obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the Board. If the second opinion differs from the certification provided pursuant to A.5.c. above, the Board may require, at its own expense, that a staff member obtain the opinion of a third health care provider designated or approved jointly by the Board and a staff member concerning the serious health condition. The opinion of the third health care provider shall be considered to be final and shall be binding on the Board and a staff member.
- e. Where the certification is for an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent the spread of the communicable disease, the certification shall be sufficient if it includes:



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(1) For NJFLA leave taken to provide in-home care or treatment of a child due to the closure of the school or place of care of the child of a staff member, by order of a public official due to the epidemic or other public health emergency, the date on which the closure of the school or place of care of the child of a staff member commenced and the reason for such closure;

(2) For NJFLA leave taken due to a public health authority's issuance of a determination requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by a staff member would jeopardize the health of others, the date of issuance of the determination, and the probable duration of the determination; or

(3) For NJFLA leave taken because a health care provider or public health authority recommends that a family member in need of care by a staff member voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by a staff member would jeopardize the health of others, the date of the recommendation, the probable duration of the condition, and the medical or other facts within the health care provider or public health authority's knowledge regarding the condition.

f. The Board shall not use the certification requirements as outlined in A.5. to intimidate, harass, or otherwise discourage a staff member from requesting or taking NJFLA leave or asserting any of a staff member's rights to NJFLA leave.

6. Denial or Exemption of NJFLA Leave

a. Denial of NJFLA Leave



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(1) The Board may deny NJFLA leave to a staff member if:

(a) A staff member is a salaried staff member who is among the highest paid 5% of the Board's staff members or the seven highest paid staff members of the Board, whichever is greater;

(b) The denial is necessary to prevent substantial and grievous economic injury to the Board's operations; and

(c) The Board notifies a staff member of its intent to deny the NJFLA leave at the time the Board determines that the denial is necessary.

(2) The provisions of A.6.a.(1) above shall not apply when, in the event of a state of emergency declared by the Governor of New Jersey or when indicated to be needed by the Commissioner of Health – New Jersey Department of Health or other public health authority, the NJFLA leave is for an epidemic of a communicable disease, a known or suspected exposure to a communicable disease, or efforts to prevent spread of a communicable disease.

(3) In any case in which NJFLA leave has already commenced at the time of the notification pursuant to A.6.a.(1)(c) above, a staff member shall return to work within ten working days of the date of notification.

7. Reinstatement from NJFLA Leave

a. Upon the expiration of a NJFLA leave, a staff member shall be restored to the position such staff member held immediately prior to the commencement of the NJFLA leave. If such position has been filled, the Board shall reinstate such staff member to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment.



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b. If, during NJFLA leave, the Board experiences a reduction in force or layoff and a staff member would have lost their position had a staff member not been on NJFLA leave, as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under a collective bargaining agreement where applicable, a staff member shall not be entitled to reinstatement to the former or an equivalent position. A staff member shall retain all rights under any applicable layoff and recall system, including a system under a collective bargaining agreement, as if a staff member had not taken the NJFLA leave.

8. Notice to Staff Members

a. The Board shall display the official Family Leave Act poster of the Division on Civil Rights in the New Jersey Department of Law and Public Safety (Division) in accordance with N.J.A.C. 13:8-2.2. The poster is available for printing from the Division's website.

b. Access to and/or distribution of this Policy shall serve as school district notice to staff members of their rights pursuant to N.J.A.C. 13:14-1.14.

9. Local Board of Education Practices

a. Accrued Paid NJFLA Leave

(1) Whether a staff member is required to use any other accrued leave time concurrent with NJFLA leave time will depend upon either the school district's practice or a provision in a collective bargaining agreement, if applicable.

(a) Sick leave may only be used concurrently with the NJFLA leave in accordance with the provisions of N.J.S.A. 18A:30-1 and N.J.S.A. 34:11B-3.

b. Multiple Leaves of Absence

(1) Where a Board maintains leaves of absence which provide benefits, other than health benefits, that differ depending upon the type of leave taken, the



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Board shall provide those benefits to a staff member on NJFLA leave in the same manner as it provides benefits to staff members who are granted other leaves of absence which most closely resemble NJFLA leave.

10. New Jersey Family Leave Insurance Program (NJFLI)

- a. Board of Education staff members are eligible to apply for benefits under the NJFLI Program administered by the State of New Jersey Department of Labor and Workforce Development.
- b. All applications for benefits under the NJFLI Program must be filed directly with the State of New Jersey Department of Labor and Workforce Development. The eligibility requirements, wage requirements, benefit duration and amounts, and benefit limitations shall be in accordance with the provisions of the NJFLI Program as administered by the State of New Jersey Department of Labor and Workforce Development. A formal appeal may be submitted to the State of New Jersey Department of Labor and Workforce Development if an employee or the Board disagrees with a determination on a claim.
- c. The NJFLI Program provides eligible individuals a monetary benefit and not a leave benefit. The school district administrative and related staff will comply with the State of New Jersey Department of Labor and Workforce Development requests for information in accordance with the provisions of N.J.A.C. 12:21-3.9.
- d. A printed notification of staff members' rights relative to the receipt of benefits under the NJFLI Program will be posted in each of the school district worksites and in a place or places accessible to all employees at the worksite.
- e. Each staff member shall receive a copy of this notification in writing at the time of the staff member's hiring, whenever the staff member provides written notice to the Superintendent of their intention to apply for benefits under the NJFLI Program, or at any time upon the first request of the staff member.



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(1) The written notification may be transmitted to the staff member in electronic form.

(2) Access to and/or distribution of this Policy shall serve as school district notice to staff members of their rights under the NJFLI Program.

B. Federal Family and Medical Leave Act

1. Definitions Relative to Federal Family and Medical Leave Act

“Covered Employer” means any public or private elementary or secondary school(s) regardless of the number of employees employed.

“Employee” means a staff member eligible for family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA).

“Hours of Service” means hours actually worked by the employee. It does not mean hours paid. Thus, non-working time – such as vacations, holidays, furloughs, sick leave, or other time-off (paid or otherwise) – does not count for purposes of calculating FMLA eligibility for the employee.

“Parent” means a biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the employeea staff member when the employee was a staff member has a son or daughter as defined below.-_This term does not include parents “in law.”

~~“Parent of a covered servicemember” means a covered servicemember’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents “in law.”~~

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider.-_“Serious health condition” may include treatment of substance abuse pursuant to 29 CFR §825.119.

~~“Serious injury or illness,” only in the case of a veteran or current member of the Armed Forces, means:~~



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- a. ~~In the case of a current member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness that was incurred by the covered servicemember in the line of duty 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 on active duty in the Armed Forces and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating; and~~
- b. ~~In the case of a covered veteran, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:~~
- ~~(1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or~~
 - ~~(2) A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of fifty percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or~~
 - ~~(3) A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or~~
 - ~~(4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. 29 CFR §825.127(e)~~

~~“Single twelve month period” means that a military caregiver’s leave begins on the first day the staff member takes FMLA leave and ends twelve months after that date, regardless of the twelve-month period established by the district for other FMLA leave reasons. 29 CFR §825.127(e)(1)~~



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-
“Son” or “daughter” means a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen or age eighteen or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

-
~~“Son or daughter of the covered servicemember” means a covered servicemember's biological, adopted or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age. 29 CFR §825.127(d)(1)~~

-
~~“Son or daughter on covered active duty or call to covered active duty status” means the staff member's biological, adopted or foster child, stepchild, legal ward, or a child for whom the staff member stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age 29 CFR §825.126(a)(5)~~

-
“Spouse” means a husband or wife.-__ For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State.-_ This definition includes an individual in a same-sex marriage or common law marriage. ~~29 CFR §825.122~~

-
~~“Staff member” means an employee eligible for family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA).~~

-
“Week” or “Workweek” means the number of days a staff member normally works each calendar week.-

-
2. ~~New Jersey Family~~ Qualifying Reasons for FMLA Leave Act (NJFLA)

-
a. A staff member may take FMLA leave to provide care made necessary:

(1) For the birth of a son or daughter of a staff member and in order to care for such son or daughter;

(2) For the placement of a son or daughter with a staff member for adoption or foster care;



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(3) In order to care for the spouse, son, daughter, or parent of
~~“Child” means a biological, adopted or foster child, stepchild, legal ward,~~
~~child of a parent who is under eighteen years of age or a child eighteen~~
~~years of age or older but incapable of self-care because of a mental or~~
~~physical impairment.~~

-

~~“Continuing medical treatment” or “continuing supervision~~
~~by a health care provider” means a period of~~
~~inapacitystaff member if such spouse, son,~~
~~daughter, or parent has a periodserious health~~
~~condition;~~

(4) For a serious health condition that makes a staff
member unable to perform the functions of
~~abseneethe position of such staff member.~~

b. FMLA leave taken in relation to military service shall be in
accordance with N.J.A.C. 13:1429 CFR §825.112.

-

~~“Parent” means a biological, adoptive, or foster parent; step parent;~~
~~parent in law; a legal guardian having a “parent-child relationship” with a~~
~~child as defined by law; or a person who has sole or joint legal or physical~~
~~custody, care, guardianship, or visitation with a child.~~

-

~~“Serious health condition” means an illness, injury, impairment, or~~
~~physical or mental condition that requires inpatient care in a hospital,~~
~~hospice, or residential medical facility or continuing medical treatment or~~
~~continuing supervision by a health care provider.~~

-

~~“Spouse” means a person to whom a staff member is lawfully~~
~~married as defined by New Jersey law.~~

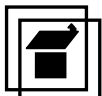
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“

c. Entitlement to FMLA leave taken for the birth of a son or
daughter or placement of a son or daughter with a staff
member for adoption or foster care shall expire at the end
of the twelve month period beginning on the date of such
birth or placement.

3. Staff Member Eligibility

a. A staff member” means an employee is eligible for
familyup to twelve weeks of FMLA leave in accordance



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~~with the New Jersey Family Leave Act a twelve month period.~~

~~“Week” or “Workweek” means the number of days a staff member normally works each calendar week.~~

~~D. Eligibility~~

~~1. Federal Family and Medical Leave Act (FMLA)~~

A staff member shall become eligible for FMLA leave after ~~he/she~~ the staff member has been employed at least twelve months ~~in this district~~ by the Board and employed for at least ~~1250~~ 1,250 hours of service during the twelve-month period immediately preceding the commencement of the FMLA leave.

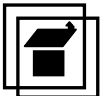
(1) The twelve months ~~the~~ staff member must have been employed need not be consecutive months pursuant to 29 CFR §825.110(b).

(2) The minimum ~~1250~~ 1,250 hours of service shall be determined according to the principles established under the Fair Labor Standards Act (~~FSLA~~ FLSA) for determining compensable hours of work pursuant to 29 CFR §785. ~~Entitlement to FMLA leave taken for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care shall expire at the end of the twelve month period beginning on the date of such birth or placement.~~

(3) The Board shall not provide pay for FMLA leave.

c. The method to determine the twelve month period in which the twelve weeks of FMLA leave entitlement occurs will be a “rolling” twelve month period measured backward from the date a staff member uses any FMLA leave.

d. Pursuant to 29 CFR §825.201, a husband and wife both employed by the ~~district~~ Board are limited to a combined total of twelve weeks of FMLA leave during the twelve-month period if the FMLA leave is taken for the birth of a



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son or daughter of thea staff member or to care for such son or daughter after birth; for placement of a son or daughter with thea staff member for adoption or foster care or in order to care for the son or daughter after placement; or to care for thea staff member's parent with a serious health condition.

~~The method to determine the twelve-month period in which the twelve weeks~~

4. Types of FMLA leave entitlement occurs will be

a. "rolling" twelve month. Continuous FMLA leave is taken by staff members for a continuous period of time. Such FMLA leave is not broken up by a period measured backward from the date of work and is continuous when a staff member ~~uses~~ is absent for three consecutive working days or more. Continuous FMLA leave may be taken for any qualifying reason.

b. Intermittent FMLA leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced FMLA leave schedule is a FMLA leave schedule that reduces a staff member's usual number of working hours per workweek, or hours per workday. A reduced FMLA leave schedule is a change in a staff member's schedule for a period of time, normally from full-time to part-time.

(1) Intermittent or reduced FMLA leave may be taken for the following qualifying reasons:

(a) For the serious health condition of the staff member or to care for a parent, son, or daughter with a serious health condition.

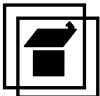
(i) For intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule taken for the reason outlined in B.4.b.(1)(a) above there must be a medical need for FMLA leave and it must be that such medical need can be best accommodated through an intermittent or reduced FMLA leave schedule.



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- (ii) The treatment regimen and other information described in the certification of a serious health condition and in the certification of a serious injury or illness, shall address the medical necessity of intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule.
- (iii) Intermittent FMLA leave may be taken for a serious health condition of a parent, son, or daughter, for a staff member's own serious health condition, which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include FMLA leave of periods from an hour or more to several weeks.
- (b) For planned and/or unanticipated medical treatment of a serious health condition when medically necessary.
- (c) To provide care or psychological comfort to a covered family member with a serious health condition when medically necessary.
- (d) For absences where a staff member or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.
- (e) For FMLA leave taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, only if the Board agrees.

 - (i) The Board's agreement is not required; however, for FMLA leave during which the mother has a



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serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(2) If a staff member needs FMLA leave intermittently or on a reduced FMLA leave schedule for planned medical treatment, then a staff member must make a reasonable effort to schedule the treatment so as not to disrupt unduly the Board's operations.

(3) When a staff member takes FMLA leave on an intermittent or reduced FMLA leave schedule basis, the Board must account for the FMLA leave using an increment no greater than the shortest period of time that the Board uses to account for use of other forms of leave provided that it is not greater than one hour and provided further that a staff member's FMLA leave entitlement may not be reduced by more than the amount of FMLA leave actually taken.

(a) If the Board accounts for use of leave in varying increments at different times of the day or shift, the Board may not account for FMLA leave in a larger increment than the shortest period used to account for other leave during the period in which the FMLA leave is taken.

(b) If the Board accounts for other forms of leave use in increments greater than one hour, the Board must account for FMLA leave use in increments no greater than one hour.

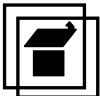
5. Staff Member Notice Requirements

a. A staff member eligible for FMLA leave must give at least a thirty day written advance notice to the Superintendent or designee if the need for the FMLA leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of a staff member or a family member.



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- (1) If thirty days is not practical, a staff member must provide notice “as soon as practicable” which means as soon as both possible and practical, taking into account all the facts and circumstances in the individual case.
- (2) Where it is not possible to give as much as thirty days’ notice, “as soon as practical” ordinarily would mean at least verbal notification to the Superintendent or designee within one or two business days or when the need for FMLA leave becomes known to a staff member.
- (3) The written notice shall include the reasons for the FMLA leave, the anticipated duration of the FMLA leave, and the anticipated start of the FMLA leave.
- (4) When planning medical treatment, a staff member must consult with the Superintendent or designee and make a reasonable effort to schedule the FMLA leave so as not to unduly disrupt the educational program, subject to the approval of the health care provider.
 - (a) Staff members are ordinarily expected to consult with the Superintendent or designee prior to scheduling of treatment that would require FMLA leave for a schedule that best suits the needs of the Board and a staff member.
- (5) Intermittent FMLA leave or FMLA leave on a reduced FMLA leave schedule must be medically necessary due to a serious health condition or a serious injury or illness. A staff member shall advise the Board of the reasons why the intermittent/reduced FMLA leave schedule is necessary and of the schedule for treatment, if applicable.
 - (a) A staff member and the Board shall attempt to work out a schedule for such FMLA leave that meets a staff member’s needs without unduly disrupting the Board’s operations.



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subject to the approval of the health care provider.

(6) Where a staff member does not comply with the Board's usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied.

b. When the approximate timing of the need for FMLA leave is not foreseeable, a staff member should give notice to the Superintendent or designee for FMLA leave as soon as practicable under the facts and circumstances of the particular case.

(1) It is expected a staff member will give notice to the Superintendent or designee within no more than one or two business days of learning of the need for FMLA leave, except in extraordinary circumstances where such notice is not foreseeable.

(2) A staff member should provide notice to the Board either in person, by telephone, telegraph, fax machine, email, or other electronic means.

6. Outside Employment During FMLA Leave

a. A staff member during any period of FMLA leave is prohibited from performing any services on a full-time basis for any person for whom ~~the~~ staff member did not provide services immediately prior to commencement of the leave. ~~A staff member using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.~~

2. New Jersey Family Leave Act (NJFLA)

A staff member shall become eligible for NJFLA leave after he/she has been employed at least twelve months in this district for not less than 1,000 base hours, excluding overtime, during the immediate preceding twelve month period. The calculation of the twelve month period to



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~~determine eligibility shall commence with the commencement of the NJFLA leave. NJFLA leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.~~

~~The district shall grant a family leave under NJFLA to more than one staff member from the same family (for example, a husband and a wife, or a brother and a sister) at the same time, provided such staff members are otherwise eligible for the leave. N.J.A.C. 13:14-1.12~~

~~A staff member during any period of the NJFLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member on NJFLA~~

~~(1) A staff member using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the NJFLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.~~Board.

~~The method to determine the twenty-four month period in which the twelve weeks of NJFLA leave entitlement occurs will be a “rolling” twenty-four month period measured backward from the date a staff member uses any leave.~~

~~E. Types of Leave~~

~~1. Federal Family and Medical Leave Act (FMLA)~~

~~A staff member may take FMLA leave to include servicemember qualifying exigency leave or military caregiver leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program.~~

~~a. Leave for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care may not be taken by a staff member intermittently or on a reduced leave schedule.~~



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- ~~b. — Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition.~~
- ~~c. — Intermittent leave means leave scheduled for periods of time from one hour or more to several weeks; however, the total time within which the leave is taken can not exceed a twelve month period for each serious health condition episode. Intermittent leave may be taken for a serious health condition that requires periodic treatment by a health care provider, rather than one continuous period of time. Intermittent leave may also be taken for absences where the staff member is incapacitated or unable to perform the essential functions of the position because of a serious health condition even if the staff member does not receive treatment by a health care provider. The staff member shall make a reasonable effort to schedule intermittent leave so as not to unduly disrupt the operations of the instructional/educational program.~~
- ~~d. — Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule not exceeding twenty four consecutive weeks. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.~~
- ~~e. — The fact that a holiday may occur within the week taken by a staff member as Family Leave has no effect and the week is counted as a week of Family Leave. However, if the staff member is out on Family Leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.~~



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~~Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.~~

~~f. _____~~

~~(2) A staff member may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that a staff member was regularly scheduled prior to such FMLA leave.~~

7. “Instructional employees” as defined in 29 CFR §825.600(e) Employees” Exceptions for FMLA Leave

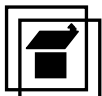
a. “Instructional Employees” are those staff members whose principal function is to teach and instruct students in class, a small group, or in an individual setting. ~~_____~~ This term includes teachers, athletic coaches, driving instructors, and special education assistants, such as signers for the hearing impaired. ~~_____~~

(1) Teacher assistants or aides who do not have as their principal job actual teaching or instructing, guidance counselors, child study team members, curriculum specialists, cafeteria workers, maintenance workers, and/or bus drivers are not considered instructional ~~employees~~ staff members for the purposes of this ~~policy.~~ Policy.

(2) For purposes of this Policy “Instructional Employees” shall be referred to as “Instructional Staff Members”.

b. “Semester ~~as defined in 29 CFR §825.602(a)(3)(b)~~” means the school semester that typically ends near the end of the calendar year and the end of the spring each school year. ~~A school district~~ The Board can have no more than two semesters in a school year.

c. FMLA leave



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~~(1)~~ Leave taken at the end of the school year and continues into the beginning of the next school year is considered consecutive FMLA leave.

d. Eligible

~~(2)~~ In accordance with 29 CFR §825.601(a)(1), eligible instructional staff members that need intermittent or reduced FMLA leave to care for a family member, or for ~~thea~~ staff member's own serious health condition which is foreseeable based on planned medical treatment and ~~the staff member~~ would be on FMLA leave more than twenty percent of the total number of working days over the period the FMLA leave would extend, the ~~districtBoard~~ may:

(1) Require a) ~~May require the~~ staff member to take the FMLA leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(2)

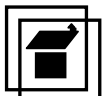
~~(b)~~ Transfer ~~thea~~ staff member temporarily to an available alternative position for which ~~thea~~ staff member is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of FMLA leave than does ~~thea~~ staff member's regular position.

e. If

~~(3)~~ In accordance with 29 CFR §825.601, if the instructional staff member does not give the required notice for FMLA leave that is foreseeable and desires the FMLA leave to be taken intermittently or on a reduced FMLA leave schedule, the ~~districtBoard~~ may require ~~thea~~ staff member to take FMLA leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the ~~districtBoard~~ may require ~~thea~~ staff member to delay taking the FMLA leave until the notice provision is met.

~~(4)~~ In accordance with 29 CFR §825.602, if

f. If an instructional staff member begins FMLA leave more than five weeks before the end of the school year, the ~~districtBoard~~ may require ~~thea~~ staff member to continue taking FMLA leave until the end of the semester if:



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~~(a)~~ —

(1) The FMLA leave will last three weeks; and

~~(b)~~ — The

(2) A staff member would return to work during the three-week period before the end of the semester.

~~(5)~~ — In accordance with 29 CFR §825.602, if

g. If an instructional staff member begins FMLA leave for a purpose other than ~~thea~~ staff member's own serious health condition during the five-week period before the end of the semester, the districtBoard may require ~~thea~~ staff member to continue taking FMLA leave until the end of the semester if:

~~(a)~~ —

(1) The FMLA leave will last more than two weeks; and

~~(2)~~ —

~~(b)~~ — The staff member would return to work during the two-week period before the end of the semester.

~~(Example of leave falling within these provisions: If a staff member plans two weeks of leave to care for a family member which will begin three weeks before the end of the term, the district could require the staff member to stay out on leave until the end of the term.)~~

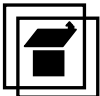
~~h.~~ If

~~(6)~~ — In accordance with 29 CFR §825.602, if an instructional staff member begins FMLA leave for a purpose other than ~~thea~~ staff member's own serious health condition during the three week period before the end of a semester, the districtBoard may require ~~thea~~ staff member to continue taking FMLA leave until the end of the semester if the FMLA leave will last more than five working days.

~~(~~

i. An example of FMLA leave falling within the situations outlines in B.7) — ~~In the event the district requires the instructional.f., B.7.g., and B.7.h. above:~~

(1) If a staff member plans two weeks of FMLA leave to care for a family member which will begin three



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weeks before the end of the term, the Board could require a staff member to stay out on FMLA leave until the end of the term.

j. In the case of a staff member who is required to take FMLA leave until the end of an academic term, only the period of FMLA leave until a staff member is ready and able to return to work shall be charged against a staff member's FMLA leave entitlement.

k. The Board may require a staff member to stay on FMLA leave until the end of the school term. Any additional leave required by the Board to the end of the semester in accordance with (4), (5), or (6) above, the additional leave days shall school term is not be counted as FMLA leave; however:

~~g. Servicemember qualifying exigency leave may arise out of the~~

(1) The Board shall be required to maintain a staff member's group health insurance; and

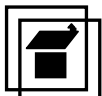
(2) The Board shall be required to restore a staff member to the same or equivalent job including other benefits at the conclusion of the leave.

8. FMLA Leave Related to Military Service

a. Definitions for FMLA related to military service shall be in accordance with 29 CFR §§825.122; .126; .127; and .310.

b. The foreign deployment of the staff member's spouse, child, or parent in accordance with 29 CFR §§825.122 and .126:

(1) The district must grant an eligible staff member up to twelve work weeks of unpaid, job-protected FMLA leave during any twelve-month period for qualifying exigencies that arise when the staff member's spouse, child, or parent is on covered active duty, or has been notified of an impending call or order to covered active duty.



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~~(2) The military member must be the spouse, son, daughter, or parent of the staff member taking FMLA exigency leave.~~

~~(3) FMLA leave can be granted for one or more of the following exigencies:~~

~~(a) Short notice deployment:~~

~~i. Notification of duty seven or less calendar days prior to date of deployment;~~

~~ii. Leave can be used for a period of seven calendar days beginning on the date the military member is notified.~~

~~(b) Military events and related activities, including official ceremonies, programs, or events sponsored by the military and related to the covered active duty or call to covered active duty status of the military member; and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross.~~

~~(c) Childcare and school activities including arranging for alternative childcare; providing childcare on an urgent, immediate need basis (not routine, regular, or everyday basis); to enroll in or transfer to a new school or day care facility; or to attend meetings with staff at a school or day care facility:~~

~~i. The son or daughter must be the son or daughter of the covered servicemember.~~

~~(d) Financial and legal arrangements made to address the military member's absence while on covered active duty or call to covered active duty status.~~

~~(e) Counseling, provided by someone other than a health care provider for oneself, for the military member, or qualified child, if the need arises from the covered active duty or call to covered active duty status of the military member.~~



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~~(f) Rest and Recuperation (R&R) to spend time with the military member on short term, temporary R&R leave during a term of deployment:~~

~~i. Can be used for a period of fifteen calendar days beginning on the date the military member commences each instance of R&R leave.~~

~~(g) Post deployment activities such as ceremonies or briefings including any that arise from the death of the military member while on covered active duty.~~

~~(h) Parental care for one meeting the definition of a "parent" and incapable of self care including: arranging alternative care; providing care on an immediate need basis; and to attend meetings or arrange services at a care facility.~~

~~(i) Additional activities in accordance with 29 CFR §825.126(b)(9).~~

h. Military caregiver FMLA leave provides care for a covered servicemember with a serious injury or illness in accordance with 29 CFR §§825.122 and 127:

(1) The district must grant up to a total of twenty-six workweeks of unpaid, job-protected FMLA leave during a "single twelve-month period" to care for a covered servicemember with a serious injury or illness.

9. Verification

~~(a) The eligible staff member must be the spouse, son, daughter, parent, or next of kin of the covered servicemember.~~

~~(b) The staff member is limited to a combined total of twenty six workweeks for any FMLA-qualifying reasons during the single twelve-month period. Up to twelve of the twenty six weeks may be for an FMLA-qualifying reason other than military caregiver leave.~~



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~~(e) — Spouses who are eligible for FMLA leave and are employed by the same covered employer may be limited to a combined total of twenty-six workweeks of leave during a single twelve-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered servicemember with a serious injury or illness. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full twenty-six workweeks of FMLA leave.~~

a. The Board shall require that a staff member's FMLA leave to care for a staff member's covered family member with a serious health condition, or due to a staff member's own serious health condition that makes a staff member unable to perform one or more of the essential functions of a staff member's position, be supported by a certification issued by the health care provider of a staff member or a staff member's family member.

(1) The Board must give written notice of a requirement for certification each time a certification is required. The Board's oral request to a staff member to furnish any subsequent certification is sufficient.

b. The Board shall require a staff member furnish certification at the time a staff member gives notice of the need for FMLA leave or within five business days thereafter, or, in the case of unforeseen FMLA leave, within five business days after the FMLA leave commences.

(1) The Board may request certification at some later date if the Board later has reason to question the appropriateness of the FMLA leave or its duration.

(2) A staff member must provide the requested certification to the Board within fifteen calendar days after the Board's request, unless it is not practicable under the particular circumstances to do



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so despite a staff member's diligent, good faith efforts or the Board provides more than fifteen calendar days to return the requested certification.

c. When FMLA leave is taken because of a staff member's own serious health condition, or the serious health condition of a family member, the Board shall require a staff member to obtain a medical certification from a health care provider that sets forth the following information:

(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 FMLA leave.

(a) Such medical facts may include information on symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment (physical therapy, for example), or any other regimen of continuing treatment;

(4) If a staff member is the patient, information sufficient to establish that a staff member cannot perform the essential functions of a staff member'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 FMLA leave required to care for the family member;

(6) If a staff member requests FMLA leave on an intermittent or reduced schedule basis for planned



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medical treatment of a staff member's or a covered family member's serious health condition, information sufficient to establish the medical necessity for such intermittent or reduced schedule FMLA leave and an estimate of the dates and duration of such treatments and any periods of recovery;

(7) If a staff member requests FMLA leave on an intermittent or reduced schedule basis for a staff member'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 FMLA leave and an estimate of the frequency and duration of the episodes of incapacity; and

(8) If a staff member requests FMLA leave on an intermittent or reduced schedule basis to care for a covered family member with a serious health condition, a statement that such FMLA leave is medically necessary to care for the family member, which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required FMLA leave.

d. A staff member may choose to comply with the certification requirement by providing the Board with an authorization, release, or waiver allowing the Board to communicate directly with the health care provider of a staff member or his or her covered family member.

(1) It is a staff member's responsibility to provide the Board with complete and sufficient certification and failure to do so may result in the denial of FMLA leave.

e. If the Board has reason to doubt the validity of a medical certification, the Board may require a staff member to obtain a second opinion at the Board's expense.

(1) The Board may designate the health care provider to furnish the second opinion, but the selected health



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care provider may not be employed on a regular basis by the Board.

- f. If the opinions of a staff member's and the Board's designated health care providers differ, the Board may require a staff member to obtain certification from a third health care provider, again at the Board's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the Board and the staff member.

10. Reinstatement Following FMLA Leave

- a. On return from FMLA leave a staff member is entitled to be returned to the same position a staff member held when FMLA leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

(1) A staff member is entitled to such reinstatement even if a staff member has been replaced or his or her position has been restructured to accommodate for a staff member's absence.

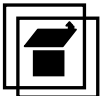
(2) The requirement that a staff member be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to de minimis, intangible, or unmeasurable aspects of the job.

b. Denial of Reinstatement

(1) A staff member has no greater right to reinstatement or to other benefits and conditions of employment that if a staff member had been continuously employed during the FMLA leave period.

(a) The Board must be able to show that a staff member would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.

(2) The Board may deny job restoration to "key employees", if such denial is necessary to prevent



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substantial and grievous economic injury to the operations of the Board.

(a) A “key employee” is a salaried FMLA-eligible staff member who is among the highest paid ten percent of all staff members employed by the Board within seventy-five miles of a staff member's worksite.

(3) If a staff member is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition or an injury or illness also covered by workers’ compensation, a staff member has no right to restoration to another position under the FMLA.

(a) The Board’s obligation may; however, be governed by the Americans with Disabilities Act, State leave law, or workers’ compensation laws.

(4) A staff member who fraudulently obtains FMLA leave from the Board is not protected by FMLA's job restoration or maintenance of health benefits provisions.

c. Intent to Return to Work

(1) The Board may require a staff member on FMLA leave to report periodically on a staff member's status and intent to return to work.

d. Fitness for Duty Certification

(1) As a condition of restoring a staff member whose FMLA leave was a result of a staff member's own serious health condition that made a staff member unable to perform a staff member's job, the Board shall require all similarly-situated staff members (i.e., same occupation, same serious health condition) who take FMLA leave for such conditions to obtain and present certification from a staff member's health care provider that a staff member is able to resume work.



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(2) A staff member has the same obligations to participate and cooperate in the fitness-for-duty certification process as in the initial certification process.

11. The Board of Education Notice

a. Notice of Staff Member Rights Under FMLA

(1) The Board shall post and keep posted on its premises, in conspicuous places where staff members are employed, a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints of violations of the FMLA with the Wage and Hour Division.

(a) The notice will be posted prominently where it can be readily seen by staff members and applicants for employment.

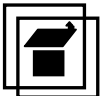
(b) The poster and the text will be large enough to be easily read and contain fully legible text.

(c) Electronic posting is sufficient to meet this posting requirement as long as it otherwise meets the requirements of B.11.

(2) The Board shall also provide this general notice to each staff member by including the notice in staff members' handbooks or other written guidance to staff members concerning staff member benefits or FMLA leave rights, if such written materials exist, or by distributing a copy of the general notice to each new staff member upon hiring. In either case, distribution may be accomplished electronically.

(3) Access to and/or distribution of this Policy shall serve as school district notice to staff members of their rights pursuant to 29 CFR §825 et seq.

b. Eligibility Notice



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(1) When a staff member requests FMLA leave, or when the Board acquires knowledge that a staff member's FMLA leave may be for an FMLA-qualifying reason, the Board must notify the staff member of the staff member's eligibility to take FMLA leave within five business days, absent extenuating circumstances.

c. Designation Notice

(1) The Board is responsible in all circumstances for designating leave as FMLA-qualifying, and for giving notice of the designation to a staff member. The Board must notify a staff member whether the leave will be designated and will be counted as FMLA leave within five business days absent extenuating circumstances.

(2) If the Board requires paid leave to be substituted for unpaid FMLA leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, the Board must inform a staff member of this designation at the time of designating the FMLA leave.

12. Local Board of Education Practices

a. Substitution of Paid Leave

(1) ~~(2) Leave entitlement is applied on a per covered servicemember, per injury basis.~~

~~(a) The staff member may take an additional twenty six weeks of leave if the leave is to care for different covered servicemembers or to care for the same servicemember with a subsequent serious injury or illness, except that no more than twenty six weeks of leave may be taken within any single twelve-month period.~~

~~(b) An eligible staff member may take military caregiver leave to care for more than one current service member or covered veteran at the same time or for the same family member with the same~~



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~~serious injury or illness both when the family member is a current servicemember and when the family member is a veteran.~~

~~(c) Military caregiver leave may be taken by eligible staff members whose family members are recent veterans with serious injuries or illnesses incurred or aggravated in the line of duty on active duty, and that manifested before or after the veteran left active duty.~~

~~2. New Jersey Family Leave Act (NJFLA)~~

~~A staff member may take NJFLA leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program. The district shall not require a staff member to take a leave of absence beyond the period of time the staff member requests family leave. N.J.A.C. 13:14-1.5(f)~~

~~a. In the case of a family member who has a serious health condition, leave may be taken intermittently when medically necessary. The total time within which the leave is taken, can not exceed a twelve-month period for each serious health condition episode. The staff member will provide the district with prior notice of the leave in a manner which is reasonable and practicable; and the staff member shall make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the instructional/educational program. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently only if agreed to by the staff member and the district.~~

~~b. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule for a period not exceeding twenty-four consecutive weeks. The staff member is not entitled to take the leave on a reduced leave schedule without an agreement between the staff member and the district if the leave is taken for the birth or adoption of a healthy child. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational~~



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~~program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.~~

~~e. The fact that a holiday may occur within the week taken by a staff member as family leave has no effect and the week is counted as a week of family leave. However, if the staff member is out on family leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.~~

~~Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.~~

~~F. Notice~~

~~1. Federal Family and Medical Leave Act (FMLA)~~

~~a. Foreseeable Leave — A staff member eligible for FMLA leave must give at least a thirty day written advance notice to the Superintendent if the need for the leave is foreseeable based on an expected birth, placement for adoption of foster care, or planned medical treatment for a serious health condition of the staff member or a family member. If thirty days is not practical, the staff member must provide notice “as soon as practicable” which means as soon as both possible and practical, taking into account all the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as thirty days notice “as soon as practical” ordinarily would mean at least verbal notification to the Superintendent within one or two business days or when the need for leave becomes known to the staff member. The written notice shall include the reasons for the leave, the anticipated duration of the leave and the anticipated start of the leave.~~



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~~When planning medical treatment, the staff member must consult with the Superintendent and make a reasonable effort to schedule the leave so as not to unduly disrupt the educational program, subject to the approval of the health care provider. Staff members are ordinarily expected to consult with the Superintendent prior to scheduling of treatment that would require leave for a schedule that best suits the needs of the district and the staff member.~~

~~The district may delay the staff member taking leave for at least thirty days if the staff member fails to give thirty days notice for foreseeable leave with no reasonable excuse for the delay.~~

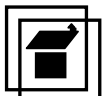
- ~~b. Unforeseeable Leave — When the approximate timing of the need for leave is not foreseeable, a staff member should give notice to the Superintendent for leave as soon as practicable under the facts and circumstances of the particular case. It is expected the staff member will give notice to the Superintendent within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not foreseeable. The staff member should provide notice to the employer either in person or by telephone, telegraph, facsimile machine or other electronic means.~~

~~2. New Jersey Family Leave Act (NJFLA)~~

- ~~a. Foreseeable Leave — A staff member eligible for NJFLA leave must give at least a thirty day advance written notice to the Superintendent of the need to take family leave except where the need to take family leave is not foreseeable.~~

~~(1) Notice for leave to be taken for the birth or placement of the child for adoption shall be given at least thirty days prior to the commencement of the leave, except that if the date of the birth or adoption requires leave to begin in less than thirty days, the staff member shall provide such notice that is reasonable and practicable.~~

~~(2) Notice for leave to be taken for the serious health condition of a family member shall be given at least fifteen days prior to the commencement of leave, except that if the date of the treatment or supervision requires leave to begin in less than fifteen days, the staff member shall provide such notice that is reasonable and practicable.~~



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~~(3) — When the Superintendent is not made aware that a staff member was absent for family leave reasons and the staff member wants to request the leave be counted as family leave, the staff member must provide timely notice within two business days of returning to work to have the time considered for family leave in accordance with the Family Leave Act.~~

~~b. — Unforeseeable Leave — When the need for leave is not foreseeable, the staff member must provide notice “as soon as practicable” which shall be at least verbal notice to the Superintendent within one or two business days of the staff member learning of the need to take family leave. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the Superintendent, but any verbal notice must be followed by written notice delivered within two working days.~~

~~G. — Leave Designation~~

~~An eligible staff member shall designate FMLA or NJFLA leave upon providing notice of the need for the leave or when the need for leave commences. The Superintendent shall provide the staff member with this Policy to assist the staff member in determining the type of leave.~~

~~H. — Benefits~~

~~Whether a staff member is required to use sick time or any other accrued leave time concurrent with FMLA or NJFLA leave time will depend upon either the district’s practice or a provision in the district’s collective bargaining agreement, if applicable. —29 CFR §825.100~~

b. Maintenance of Staff Member Benefits

~~(1) — The Board will must maintain a staff member's coverage under any group health insurance policy, group subscriber contract, or health care plan at on the level and under the same conditions as coverage would have been provided if the a staff member had continued to work instead of taking the leave. If the staff member was paying all or part of the premium payments prior to the leave, the staff member would continue to pay his/her share been continuously employed during the leave time. Any instructional employee who is on leave under NJFLA or entire FMLA at the end of the school year will be provided with any benefits~~



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~~over the summer that the staff member would normally receive if they had been working at the end of the school year.~~

~~-~~

~~I. Returning from Leave~~

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~~The Federal Family and Medical Leave Act and/or the New Jersey Family Leave Act~~

~~-~~

~~A staff member returning from leave shall be entitled to the position he/she held when leave commenced or to an equivalent position of like seniority, status, employment benefits, pay and other conditions of employment. If the district experiences a reduction in force or layoff and the staff member would have lost his/her position had the staff member not been on family leave as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under any collective bargaining agreement, the staff member shall be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes, and laws. The staff member's tenure and seniority rights, if any, and other benefits shall be preserved, but the staff member shall accrue no additional time toward tenure or seniority for the leave period of the leave, except as may be provided by law.~~

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~~The return of a staff member prior to the expiration of the requested family leave may be permitted by the Board if the return does not unduly disrupt the instructional program or require the Board to incur the cost of continuing the employment of a substitute under contract.~~

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~~The Board may, in accordance with the provisions of 29 CFR §825.312 delay restoration of employment of a staff member using FMLA leave for the staff member's serious health condition until the staff member submits a fitness for duty examination from his/her health care provider indicating that the staff member is able to resume work. In the event the Board requires such a fitness for duty examination before restoration of the staff member after leave, the Board will provide the staff member specific notice either at the time the staff member gives notice of the need for leave or immediately after the leave commences and the staff member advises the Board of the medical circumstances for the leave.~~

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~~If leave is taken under FMLA, and the staff member does not return to work after the leave expires, the Board is entitled to recover health insurance costs paid~~



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~~while the staff member was on FMLA. The Board's right to recover premiums would not apply if the staff member fails to return to work due to:~~

- ~~-~~
- ~~1. The continuation, onset or recurrence of a serious health condition of the staff member; or~~
- ~~-~~
- ~~2. Circumstances beyond the staff member's control.~~

~~J. Ineligible Staff Members~~

C. Shared Provisions

~~1. Federal Family and Medical Leave Act (FMLA)~~

~~The district may deny job restoration after FMLA leave if the staff member is a "key employee" as defined in 29 CFR §825.217 if such denial is necessary to prevent substantial and grievous economic injury to the district or the district may delay restoration to a staff member who fails to provide a fitness for duty certificate to return to work for leave that was the staff member's own serious health condition. A "key employee" is a salaried, staff member who is among the highest paid ten percent of the school district staff employed by the district within 75 miles of the worksite. No more than ten percent of the school district staff within 75 miles of the worksite may be "key employees."~~

~~In the event the Superintendent believes that reinstatement may be denied to a key employee, the Superintendent must give written notice to the staff member at the time the staff member gives notice of the need for leave, or when the need for leave commences, if earlier, that he/she qualifies as a key employee. The key employee must be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the district should determine that substantial and grievous economic injury to the district's operations will result if the staff member is reinstated from leave. The district's notice must explain the basis for the district's finding that substantial and grievous economic injury will result, and if leave has commenced, must provide the staff member a reasonable time in which to return to work. If the staff member on leave does not return to work in response to the notice of intent to deny restoration, the staff member continues to be entitled to maintenance of health insurance.~~

~~A key employee's rights under the FMLA continue unless and until the staff member either gives notice that he/she no longer wishes to return to work or the district actually denies reinstatement at the conclusion of the leave period. A staff member is still entitled to request reinstatement at the~~



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~~end of the leave period even if the staff member did not return to work in response to the district's notice. The district will then again determine whether there will be substantial and grievous economic injury from reinstatement based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the district will notify the staff member in writing (in person or by certified mail) of the denial of the restoration.~~

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2. ~~New Jersey Family Leave Act~~

~~The district may deny family leave to the staff member if the staff member is a salaried employee who is among the highest paid five percent of the school district staff or one of the seven highest paid employees of the district, whichever is greater, if the denial is necessary to prevent substantial and grievous economic injury to the school district's operations. The Superintendent shall notify the staff member of the intent to deny the leave at the time the Superintendent determines the denial is necessary. If the leave has already commenced at the time of the district's notification of denial, the staff member shall be permitted to return to work within ten working days of the date of notification.~~

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K. ~~Verification of Leave~~

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1. ~~Federal Family and Medical Leave Act (FMLA)~~

~~The Board requires a staff member's FMLA leave to care for the staff member's seriously ill spouse, son, daughter, or parent; or for a servicemember's qualifying exigency or serious injury; or for illness due to the staff member's own serious health condition, that makes the staff member unable to perform one or more of the essential functions of the staff member's position, be supported by a certification issued by the health care provider of the staff member or the staff member's ill family member. The medical certification required encompasses both physical and psychological care and includes situations where a family member is unable to care for his/her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself/herself to the doctor. It can also include providing psychological comfort and reassurance beneficial to a child, spouse, or parent with a serious health condition who is receiving inpatient or home care and can include situations where the staff member may be needed to substitute for others who normally care for the family member or covered servicemember or to make arrangements for changes in care. The staff member need not be the only individual or family member available to care for the family member or covered servicemember. 29 CFR §825.124~~



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~~The certification must meet the requirements of 29 CFR §§825.306, 309, and 310 to include: which part of the definition of “serious health condition” applies; the approximate date the serious health condition commenced and its probable duration; whether it will be necessary for the staff member to take intermittent and/or reduced leave; whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity; if additional treatments will be required for the condition; and/or if the patient’s incapacity will be intermittent or will require reduced leave. The certification of a serious health condition of a family member of the staff member shall be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider’s knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement.~~

~~-~~
~~In the event the Superintendent doubts the validity of the certification, in accordance with 29 CFR §825.307, the district may require, at the district’s expense, the staff member obtain an opinion regarding the serious health condition from a second health care provider designated by the district, but not employed on a regular basis by the district. If the second opinion differs from the staff member’s health care provider, the district may require, at the district’s expense, the staff member obtain the opinion of a third health care provider designated by the district or approved jointly, in good faith, by the district and the staff member. The opinion of the third health care provider shall be final and binding on the district and the staff member.~~

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~~The district may require re-certification pursuant to the requirements of 29 CFR §825.308. In accordance with 29 CFR §825.309, the staff member on leave must provide a written report to the Superintendent every thirty workdays. The report shall include the staff member’s status and intended date to return to work. In the event the staff member’s circumstances change, the staff member must provide reasonable notice to the Superintendent if the staff member intends to return to work on a date sooner than previously noticed to the district. The staff member is not required to take more leave than necessary to resolve the circumstance that precipitated the need for leave. As a condition of returning to work after the leave for the staff member’s own serious health condition, and in accordance with 29 CFR §825.310, the district requires a staff member to provide a certification from their health care provider that the staff member is able to resume work.~~

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~~In accordance with 29 CFR §825.311, the district may delay the taking of FMLA leave to a staff member who fails to provide certification within fifteen days after being requested to do so by the district. In accordance~~



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~~with 29 CFR §825.312, the district may delay the taking of leave until thirty days after the date the staff member provides notice to the district of foreseeable leave or the district may delay continuation of leave if a staff member fails to provide a requested medical certification in a timely manner.~~

~~2. New Jersey Family Leave Act~~

~~The Board shall require the certification of a duly licensed health care provider verifying the purpose of requested NJFLA leave. Certification of a serious health condition of a family member of the staff member shall be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider's knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement, whichever is appropriate.~~

~~In the event the Superintendent doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require, at the district's expense, the staff member to obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the district. If the second opinion differs from the certification the district may require, at the district's expense, that the staff member obtain the opinion of a third health care provider designated or approved jointly by the district and the staff member concerning the serious health condition. The opinion of the third health care provider shall be final and binding on the district and the staff member.~~

~~L. Interference with Family Leave Rights~~

~~The Federal Family and Medical Leave ActNJFLA and the New Jersey Family Leave ActFMLA prohibit interference with a staff member's rights under the law, and with legal proceedings or inquiries relating to a staff member's rights. Unless permitted by the law, no staff member shall be required to take family leave or to extend family leave beyond the time requested. A staff member shall not be discriminated against for having exercised his/her rights under the Federal FamilyNJFLA and Medical Leave Act or the New Jersey Family Leave ActFMLA nor discouraged from the use of family leave.~~

~~M.~~

~~2. Non-Tenured Teaching Staff~~



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Family leave granted to a nontenured staff member cannot extend ~~the~~ staff member's employment beyond the expiration of his/her employment contract.

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N. —

3. Record Keeping

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~~In order that staff member's entitlement to FMLA leave and NJFLA leave can be properly determined, the Superintendent~~

The Superintendent or designee shall ensure the keeping of accurate attendance records that distinguish family leave from other kinds of leave. The Superintendent will publish a notice explaining the Act's provisions and provide information concerning the procedures for filing complaints of violations of the FMLA and NJFLA, so a staff member's entitlement to NJFLA leave and FMLA leave can be properly determined.

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O. —

4. Processing of Complaints

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a. New Jersey Family Leave Act

(1) Any complaint alleging a violation of the NJFLA shall be processed in the same manner as a complaint filed under the terms of N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:4 through the New Jersey Department of Law and Public Safety, Division on Civil Rights.

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b. Federal Family and Medical Leave Act (FMLA)-29 CFR §§825.400-401

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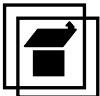
a. —

(1) If there is a dispute between the ~~district~~Board and a staff member as to whether leave qualifies as FMLA leave, it should be resolved through discussion between the staff member and the ~~district~~Superintendent or designee. Such discussions and the decision shall be documented by the ~~school district~~Superintendent or designee.

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b. The

(2) A staff member also may file, or have another person file on his/her behalf, a complaint with the



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United States Secretary of Labor.- A complaint may be filed in person, by mail, or by telephone with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, at any local office of the Wage and Hour Division.

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~~2. New Jersey Family Leave Act N.J.A.C. 13:14-1.16~~

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~~a. Any complaint alleging a violation of the Act~~

~~(3) This Policy 1643 shall be posted on the school district website, in a manner accessible to all staff members and a hard copy shall be provided to all staff members annually prior to the beginning of the school year and upon initial employment in the school district during the school year.~~

~~shall be processed in the same manner as a complaint filed under the terms of N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:4 through the New Jersey Department of Law and Public Safety, Division on Civil Rights.~~

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~~Implementation of FMLA and NJFLA will be consistent with provisions in collective bargaining agreement(s) in the district.~~

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29 CFR §825 et seq.

29 CFR §785

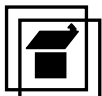
N.J.S.A. 10:5-1;

N.J.S.A. 34:11B et seq.

N.J.A.C. 13:14-1 et seq.

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POLICY GUIDE

Adopted: ~~16 August 2017~~

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